JOURNAL

of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

Regular Session of 1992

Volume III

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1992, and
in the Two Hundredth
Year of the Commonwealth

Begun on the Seventh Day of January, 1992, and Adjourned
Sine Die on the Fourteenth Day of April, 1992.

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FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Sections 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes*, the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This Journal represents the fulfillment of this obligation for the Regular Session of the House of Representatives of 1992.

The text of a bill is spread in full when it receives a first reading. The vote on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended. Roll calls on motions to pass legislation have been compiled in an Appendix.

Mrs. Jean Wallace and Mrs. Wilda Bond prepared House Journal for the Regular Session of 1992. The edited copy and index in this Journal reflect the cooperative efforts of the Commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
April, 1992

THURSDAY, MARCH 12, 1992

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Pro Tempore Worthington.

Prayer by Brother John Penick, Burgin Baptist Church, Burgin.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 11, 1992 be dispensed with and the same approved. Agreed.

Governor Brereton C. Jones has appointed the following individuals as members of the Governor's Higher Education Nominating Committee:

BRERETON C. JONES
GOVERNOR

EXECUTIVE ORDER
92 - 237
March 6, 1992

SECRETARY OF STATE
Frankfort
Kentucky

By virtue of the authority vested in me by the 1992 Kentucky Acts, Chapter 10, Section 3 (House Bill 149) as enacted by the 1992 Kentucky General Assembly, I, Brereton C. Jones, Governor of the Commonwealth of Kentucky, hereby appoint the following individuals as members of the Governor's Higher Education Nominating Committee:

Wilson W. Wyatt, Sr., The 1400 Willow, Unit 1205, Louisville, Kentucky 40204, representing the Fourth Supreme Court District, for a term expiring April 14, 1994; Henry M. Mann, 111 West Lakeside Avenue, Lakeside Park, Kentucky 41017, representing the Sixth Supreme Court District, for a term expiring April 14, 1994; Morton J. Holbrook, Jr., 100 St. Ann Building, Post Office Box 727, Owensboro, Kentucky 42302-0727, representing the Second Supreme Court District, for a term expiring April 14, 1996; Sara Lowry Page, 4 Hickory Hill, Paducah, Kentucky 42001, representing the First Supreme Court District, for a term expiring April 14, 1996; Louis Prichard, Vice President, Farmer's National Bank, 304 West Main Street, Danville, Kentucky 40422, representing the Fifth Supreme Court District, for a term expiring April 14, 1998; Norma Boster Adams, Attorney at Law, Post Office Box 35, Somerset, Kentucky 42502, representing the Third Supreme Court District, for a term expiring April 14, 1998; and Marc E. Washington, 1801 Hilton Avenue, Ashland, Kentucky 41101, representing the Seventh Supreme Court District, for a term expiring April 14, 1998.

Please issue to them commissions.

s/Brereton C. Jones, Governor
Commonwealth of Kentucky

s/Bob Babbage
Secretary of State

Senate Message

Announcing passage of **SB 186**, **SB 260**, **SB 330**, **SCR 76**, **HB 269**, with Senate Amendment, and **HB 458** with Senate Floor Amendments. (Time: 2:03 p.m.)

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 494** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:04 p.m.)

HB 494 was delivered to the Senate and signed by the President. Delivered to the Governor on March 12, 1992 at 2:12 p.m.

Introduction of Bills and Resolutions

HR 195, by Representative Noland: A RESOLUTION celebrating the one hundred and eighty-three years Estill County has been a part of the Commonwealth of Kentucky upon the occasion of Kentucky's Bicentennial Year.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Appropriations and Revenue: **HCR 191**

Economic Development: **SB 314, SB 315, SB 316**

Tourism Development and Energy: **SB 323**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **SB 216**

Education: **HB 673, HB 933**

Report of Committees

The Committee on Elections and Constitutional Amendments reported **HB 230** with Committee Amendment and Title Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Elections and Constitutional Amendments reported **HB 725**, with Committee Substitute attached thereto, and **HCR 153** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 725, AN ACT proposing amending Section 226 of the Constitution of Kentucky relating to lotteries and gift enterprises.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) ***The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:***

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the organizations which conduct them, and the charitable purposes for which the funds are expended.

(3) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The general assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. The question to be submitted to the voters shall read: "Are you in favor of allowing the General Assembly to permit the conduct of charitable lotteries and charitable gift enterprises by charitable organizations provided the General Assembly passes statutes to assure the proper functioning, honesty, and integrity of charitable lotteries and the organizations which conduct them?"

Section 3. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **HB 725** is as follows:

HB 725, AN ACT proposing amending Section 226 of the Constitution of Kentucky relating to lotteries and gift enterprises.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) ***The General Assembly may by general law permit charitable lotteries and charitable gift enterprises and, if it does so, it shall:***

(a) Define what constitutes a charity or charitable organization;

(b) Define the types of charitable lotteries and charitable gift enterprises which may be engaged in;

(c) Set standards for the conduct of charitable lotteries and charitable gift enterprises by charitable organizations;

(d) Provide for means of accounting for the amount of money raised by lotteries and gift enterprises and for assuring its expenditure only for charitable purposes;

(e) Provide suitable penalties for violation of statutes relating to charitable lotteries and charitable gift enterprises; and

(f) Pass whatever other general laws the General Assembly deems necessary to assure the proper functioning, honesty, and integrity of charitable lotteries and charitable gift enterprises, and the charitable purposes for which the funds are expended.

(3) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The general assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. The question to be submitted to the voters shall read: "Are you in favor of allowing the General Assembly to permit the conduct of charitable lotteries and charitable gift enterprises by charitable organizations provided the General Assembly passes statutes to assure the proper functioning, honesty, and integrity of charitable lotteries and the organizations which conduct them?"

Section 3. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HCR 153, A CONCURRENT RESOLUTION requesting and petitioning the Congress of the United States to propose for submission to the states an amendment to the United States Constitution to prohibit the physical desecration of the American flag.

WHEREAS, the right of free expression is part of the United States Constitution, but very carefully drawn limits on expression in specific instances have long been recognized as legitimate means of maintaining public safety and decency, as well as orderliness and productive value of public debate;

WHEREAS, certain actions, although arguably related to one person's free expression, nevertheless raise issues concerning public decency, public peace, and the rights of expression and sacred values of others;

WHEREAS, there are symbols of our national soul, such as the Washington Monument, the United States Capitol Building, and memorials to our greatest heroes which are the property of every American and are therefore worthy of protection from desecration and dishonor;

WHEREAS, the American flag is a most honorable and worthy banner of a nation which is thankful for its strengths and committed to curing its faults, and remains to millions of immigrants the universal symbol of the American ideal;

WHEREAS, recent decisions by the United States Supreme Court no longer accord to the Stars and Stripes the reverence, respect, and dignity befitting the banner of that most noble experiment of a nation-state;

WHEREAS, it is only fitting that people everywhere should lend their voices to a forceful call for restoration to the Stars and Stripes a proper station under law and decency;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Commonwealth of Kentucky respectfully petitions the Congress of the United States to propose an amendment to the United States Constitution, for ratification by the states, specifying that Congress and the states shall have the power to prohibit public physical desecration of the flag of the United States.

Section 2. That the Clerk of the House of Representatives is directed to send copies of this Resolution to the Clerk of the U. S. House of Representatives, the Secretary of the U. S. Senate, and the members of the Kentucky Congressional Delegation.

The Committee on State Government reported **HB 444**, with Committee Substitute and Title Amendment attached thereto, **HB 533**, with Committee Amendments attached thereto, **HB 660**, **HB 737**, **HB 758**, **HB 778**, **HB 816**, with Committee Substitute attached thereto, **HB 820**, **HB 858**, **HB 926**, **HCR 158** and **SB 219** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 444, AN ACT relating to training of corrections personnel and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The Department of Corrections Training shall establish, supervise and coordinate training programs for corrections personnel, and any other justice or non corrections related personnel as prescribed by the secretary.

(2) The Department of Corrections Training shall make a continuing study of corrections training standards and upon request may furnish information relating to standards for recruitment, employment, promotion, organization, management and operation of any corrections agency in Kentucky.

(3) The Department of Corrections Training shall conduct continuing research on corrections law and criminal justice subjects related to corrections training.

(4) The Department of Corrections Training shall name a primary university-based training facility and satellite facilities as necessary. Given the nature of correctional facilities and their staff needs, the department

shall utilize regional universities and other sites reasonably near to major correctional facilities for the conduct of basic academics, inservice, and specialized training.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The Kentucky Corrections Council shall be attached to the office of the commissioner, Department of Corrections Training for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 14 of this Act, unless the context otherwise requires:

(1) "Council" means the Kentucky Corrections Council established by Sections 1 to 14 of this Act;

(2) "Department" means the Department of Corrections Training of the Justice Cabinet;

(3) "Corrections officer" means an employee of the Commonwealth whose duties include supervision of prisoners in state institutions or in private institutions under contract to the state, probation and parole officers, jailers, deputy jailers, and employees of county or regional jails whose duties include supervision of prisoners;

(4) "Corrections employee" means any state employee employed by a correctional facility, a private employee of a correctional facility under contract to the state, and an employee of a county or regional jail whose duties do not classify him as a corrections officer pursuant to subsection (4) of this section; and

(5) "Secretary" means the secretary of the Justice Cabinet.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The Kentucky Corrections Council is hereby established as an independent administrative body of state government to be made up as follows:

(1) The Attorney General of Kentucky, the commissioner of the Department of Corrections, the dean of the Kent School of Social Work of the University of Louisville, the dean of the School of Law Enforcement of Eastern Kentucky University, the president of the Kentucky Jailer's Association, the president of the County Judge/Executive's Association, and the Kentucky president of the Fraternal Order of Police, shall be ex officio members of the council, as full voting members of the council by reason of their office. Each ex officio member may designate in writing a person to represent him and vote on his behalf.

(2) Nine (9) members shall be appointed by the Governor for terms of four (4) years from the following classifications: a county magistrate or county commissioner, a probation and parole officer, a member of the Kentucky Bar Association, a state corrections officer from a maximum security facility, a state corrections employee, a deputy jailer, a local corrections employee, a state corrections officer from a facility other than a maximum security facility, and a citizen of Kentucky not coming within the foregoing classifications who has been the victim or survivor of a victim of a felony offense. No person shall serve beyond the time he holds the office or employment by reason of which he was initially eligible for appointment. Vacancies shall be filled in the same manner as the original appointment and the successor shall be appointed for the unexpired term. Any member may be appointed for additional terms.

(3) No member may serve on the council with the dual membership as the representative of more than one (1) of the aforementioned groups or the holder of more than one (1) of the aforementioned positions. If an existing member of the council assumes a position entitling him to serve on the council in another capacity, the Governor shall appoint an additional member from the group concerned to prevent dual membership.

(4) Membership on the council shall not constitute a public office and no member shall be disqualified from holding public office by reason of his membership.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The business of the council shall be conducted in the following manner:

(1) The council at its initial meeting to be held promptly after the appointment of its members, shall elect a chairman and vice-chairman from among its members who shall serve until the first meeting in

the succeeding year. Thereafter, the chairman and vice-chairman shall be elected at the first meeting of each calendar year.

(2) Seven (7) members of the council shall constitute a quorum for the transaction of business.

(3) The council shall maintain minutes of its meetings and such other records as it deems necessary.

(4) The council shall report at least annually to the Governor and to the General Assembly as to its activities.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The members of the council shall receive no salary but shall be reimbursed for their reasonable and necessary expenses actually incurred in the performance of their functions.

(2) Members of the council who are corrections officers or employees shall be given on-duty time and shall be considered as on duty when attending meetings of the council or attending to the business of the council. Meetings and business of the council shall take precedence over the normal work of corrections officers or employees.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The council is vested with the following functions and powers:

(1) To prescribe standards for the approval and continuation of approval of schools at which corrections courses required under Sections 1 to 14 of this Act shall be conducted, including, but not limited to, minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;

(2) To prescribe minimum qualifications for instructors at the schools, except that institutions of higher education shall be exempt from council requirements;

(3) To prescribe qualifications for attendance and conditions for expulsion from the schools;

(4) To approve, to issue, and to revoke for cause certificates to schools and instructors having met requirements under Sections 1 to 14 of this Act;

(5) To approve law enforcement officers and other persons as having met requirements under Sections 1 to 14 of this Act;

(6) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of Sections 1 to 14 of this Act, any information or documents;

(7) To recommend reasonable administrative regulations to the secretary to accomplish the purposes of Sections 1 to 14 of this Act; and

(8) To adopt bylaws for the conduct of its business not otherwise provided for.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

Subject to approval by the secretary, the department may make its facilities and services available upon the following terms:

(1) The department may determine to which corrections agencies and court agencies and its officers it will offer training;

(2) In determining the corrections officers and employees for which it will offer training and in allocating available funds, the department shall give first priority to "corrections officers" as defined by Section 3 of this Act;

(3) Except for the officers described in subsection (2) of this section, the department may determine whether persons to whom it offers training or agencies employing such persons must bear any or all costs of the training. The employer of private corrections officers and employees, in the case of a private facility under contract to the state, shall reimburse the department for all costs of training for these officers and employees.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

As used in KRS 15.350 to 15.370:

(1) "Corrections training" includes all formal corrections activities in the Commonwealth with the exception of on-the-job training, training conducted at corrections roll calls, and training conducted by institutions of higher education. The Kentucky Corrections Council shall, by administrative regulation, define those activities which constitute formal corrections training and those which do not.

(2) "Corrections instructor" means any person engaged in conducting, supervising, or teaching in courses of corrections training as defined in subsection (1) of this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Corrections Council shall have the power to certify corrections instructors and to recertify the same. Certifications shall be done pursuant to administrative regulations issued by the council for the purpose of assuring high quality corrections instructors in the Commonwealth. The administrative regulations may include, but are not limited to:

(a) The level of formal or other training possessed by the instructor;

(b) The work-related background of the instructor;

(c) The personal background of the instructor with regard to absence of past criminal record; and

(d) Other matters the council may deem to be necessary to insure high quality corrections instruction for the Commonwealth.

(2) The council shall make no charges for certification as a corrections instructor.

SECTION 11. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) No person shall act as a corrections instructor or engage in corrections training as defined in Section 9 of this Act unless he shall possess a certification or waiver of certification issued by the council.

(2) The provisions of subsection (1) shall not apply to an instructor who is certified to teach a specific subject or subjects by a state or federal agency who is teaching within his field of competence and the course of instruction is either required or approved by the council.

SECTION 12. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

All corrections officers and corrections employees shall receive the basic and inservice training required by the Kentucky Corrections Council by administrative regulation.

Section 13. KRS 15A.020 is amended to read as follows:

There is established within the cabinet a Department of State Police, ***a department of corrections training,*** and a Department of Criminal Justice Training. Each department shall be headed by a commissioner appointed by the secretary with the approval of the Governor as required by KRS 12.050. The commissioners shall be directly responsible to the secretary and shall perform ***the*** [~~such~~] functions, powers, and duties [~~as~~] provided by law and as the secretary may prescribe.

Section 14. KRS 15A.990 is amended to read as follows:

(1) Any person who intentionally violates the provisions of KRS 15A.210 to 15A.230 or the administrative regulations issued thereunder shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000). Each day of violation shall be a separate offense.

(2) Any person who knowingly or willfully makes any false or fraudulent statement or representation in any record, report, or application to the Corrections Council, Department of Corrections Training, or other agency of the Justice Cabinet under Sections 1 to 13 of this Act shall be guilty of a Class A misdemeanor.

(3) Any person who knowingly violates any of the provisions of Sections 1 to 13 of this Act is guilty of a violation unless another penalty is specified by subsection (2) of this section or by other law.

Section 15. There is appropriated to the Department of Corrections Training from the General Fund of the Commonwealth the sum of $3,000,000 for Fiscal Year 1993 and the sum of $3,000,000 for Fiscal Year 1994. These funds shall be used for training staff, salaries, fees, trainee food and lodging while in training, training materials, and other training related expenses provided by the Corrections Cabinet or its designee for cabinet employees, jail personnel, and other corrections professionals. These funds shall not lapse.

The Committee Substitute to **HB 444** is as follows:

HB 444, AN ACT relating to training of corrections personnel and making an appropriation therefor.

WHEREAS, the state's corrections population is increasing at a rate of six (6) percent per year; and

WHEREAS, the average daily cost of institutionalizing a state prisoner is forty-five dollars ($45); and

WHEREAS, the burden of this cost to the Commonwealth is hampering the state's ability to perform needed programs for other worthwhile constituencies; and

WHEREAS, this cost can be greatly curtailed by improved correctional management and operations;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission conduct a detailed study of the management and operations of the state correctional system.

Section 2. That the details of the study include:

(1) The recruitment, training, salary, and retention of correctional officers and staff;

(2) The recidivism rate and influencing factors;

(3) The prison population increase and the influence of habitual offender statutes, parole restrictions, sentencing restrictions, and the lack of alternatives to incarceration; and

(4) The availability of inmate housing including private facilities and alternative construction methods.

Section 3. That the study be conducted by the Interim Joint State Government Committee and such other members designated by the Legislative Research Commission.

Section 4. That the study be completed no later than July 1, 1993, for referral to the appropriate Interim Joint Committee.

Section 5. Staff service to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000). These staff services shall be provided from the regular commission budget, and are subject to the limitations and other research responsibilities of the commission.

The Committee Title Amendment to **HB 444** is as follows:

Amend printed copy of **HB 444** by changing the title to read "AN ACT relating to corrections".

HB 533, AN ACT relating to corrections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of the Department of Corrections may purchase liability insurance for the protection of health care professionals employed by or serving the department to protect them from liability for acts, omissions, and claims of medical and professional malpractice arising in the course and scope of their employment or service to the department.

(2) The commissioner may purchase the type and amount of liability coverage deemed appropriate to best serve the department's interest.

Section 2. KRS 196.070 is amended to read as follows:

The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] shall:

(1) Supervise and administer the Kentucky State Reformatory, the Kentucky Correctional Institution for Women, the Kentucky State Penitentiary, Northpoint Training Center, the Luther Luckett Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, the Roederer Correctional Complex, and any minimum security correctional institutions established and operated by the cabinet, or any divisions of those institutions, ***the private prisons as provided by KRS 197.500,*** and the prison industry program within those institutions.

(2) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.

(3) Have the authority to transfer, with the approval of the secretary and the secretary of the Finance and Administration Cabinet, appropriated funds from the budget of one (1) penal institution to another.

(4) Determine minimum, maximum, and conditional release dates of prisoners in accordance with KRS 197.045.

(5) Authorize the transfer of prisoners between institutions.

Section 3. KRS 196.160 is amended to read as follows:

(1) The ***commissioner*** [~~secretary~~] shall appoint a warden, a receiver, and other necessary employees for each of the state penal and correctional institutions. The compensation of these officers and employees may include maintenance. ***The commissioner may require these officers and employees to wear uniforms and to adopt, amend, or rescind administrative regulations governing dress and grooming standards of these uniformed officers and employees.***

(2) The cabinets shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by its employees in those positions in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

Section 4. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

(1) "State agency" means any department, board, commission, or agency of the state government;

(2) ***"Department"*** [~~"Cabinet"~~] means the ***Department of*** Corrections [~~Cabinet~~];

(3) "Penitentiaries" includes the state penal institutions for males at Eddyville and LaGrange, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof***, any private prison as provided by KRS 197.500,*** and any other similar institutions hereafter established.

(4) "Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary.

Section 5. KRS 197.020 is amended to read as follows:

The ***department*** [~~Corrections Cabinet~~] shall:

(1) Formulate and prescribe all necessary regulations and bylaws for the government and discipline of the penitentiary, the rules for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their deportment and conduct;

(2) Prescribe the character of food and diet of the prisoners [~~and~~] rules for the preservation of the health of the prisoners***;***[~~,~~] the daily cleansing of the penitentiary***;***[~~,~~] the cleanliness of the persons of the prisoners***;***[~~,~~] the general sanitary government of the penitentiary and prisoners***;***[~~,~~] the character of the labor, and quantity of food and clothing, [~~and~~] the length of time during which the prisoners shall be employed daily***, adopt,***

amend, and rescind as the department deems necessary administrative regulations governing the disposition of abandoned, lost, or confiscated property of prisoners; and

(3) Cause the ***administrative*** [~~rules and~~] regulations prescribed by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.

Section 6. KRS 197.025 is amended to read as follows:

KRS 61.884 and 61.878 to the contrary notwithstanding, no ***person, including any*** inmate confined in a jail or any facility under the jurisdiction of the ***Department of*** Corrections [~~Cabinet~~] shall have access to any records relating to himself***,*** or any [~~other~~] inmate, ***or any other records,*** if the disclosure is deemed by the warden and treatment staff to constitute a threat to the security of the inmate, any other inmate, correctional staff, [~~or~~] the institution***, or any other person.***

Section 7. KRS 197.045 is amended to read as follows:

(1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as otherwise provided in this section, to be determined by the ***department*** [~~cabinet~~] from the conduct of the prisoner. In addition, the ***department*** [~~cabinet~~] shall provide an educational good time credit of sixty (60) days to any prisoner ***who*** [~~that~~] successfully ***receives*** [~~completes~~] a graduate equivalency diploma, a two (2) or four (4) year college degree, ***or a two (2) year or four (4) year certification in applied sciences,*** or who ***receives a vocational or technical education diploma as*** [~~passes state certification for any vocational program~~] provided***, and defined*** by the ***department*** [~~cabinet~~]; prisoners may earn additional credit for each program completed. The ***department*** [~~cabinet~~] may forfeit any good time previously earned by the prisoner, or deny the prisoner the right to earn good time in any amount, if during the term of imprisonment a prisoner commits any offense or violates the rules of the institution.

(2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.

(3) An inmate may, at the discretion of the ***commissioner*** [~~secretary~~], be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. The allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.

Section 8. KRS 197.440 is amended to read as follows:

Communications ***made in the course of*** [~~relative to~~] a sexual offender's diagnosis and treatment in the program[~~, made~~] between a sexual offender or member of the offender's family and any employee of the ***department*** [~~cabinet~~] who is assigned to work in the program, shall be privileged from disclosure in any civil or criminal proceeding, unless the offender consents ***in writing*** to the disclosure or the communication is related to an ongoing criminal investigation. The privilege created by this section shall not extend to disclosures made [~~in an administrative hearing~~] for the purpose of determining whether the offender should continue to participate in the program. The offender shall be informed in writing of the limits of the privilege created ***in this section*** [~~herein~~].

Section 9. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525 unless the context otherwise requires:

(1) ***"Department"*** [~~"Cabinet"~~] means the ***Department of*** Corrections [~~Cabinet~~];

(2) "Adult correctional facility" means an adult [~~male~~] penal or correctional facility for the exclusive confinement of sentenced adult [~~male~~] felons who have been classified by the ***department*** [~~cabinet~~] to be minimum security inmates and shall include any prison, reformatory, farm center, forestry camp, or similar institution which houses minimum security sentenced adult [~~male~~] felons. For purposes of KRS 197.505 to 197.525, a county or regional jail shall not be considered an adult correctional facility; and

(3) "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating, and managing adult correctional facilities.

Section 10. KRS 197.510 is amended to read as follows:

Any contract entered on or after July 15, 1988, between the state and a private provider for the operation and management of an adult correctional facility shall include terms which comply with at least the following:

(1) Unless otherwise provided by KRS 197.505 to 197.525, any adult correctional facility contracted for pursuant to KRS 197.505 shall submit a plan to the ***department*** [~~Corrections Cabinet~~] for achieving American Correctional Association standards within five (5) years, which is appropriate for the specific type of adult correctional facility.

(2) The provisions of KRS Chapter 45A shall apply to any contract or any proposal for a contract authorized by KRS 197.505 to 197.525 for an adult correctional facility.

(3) The adult correctional facility shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the appropriate governing authority. The facility shall have written policies which govern revisions in the budget. The facility shall have a fiscal system which accounts for all income and expenditures on an on-going basis.

(4) The adult correctional facility shall prepare and distribute to its governing authority and appropriate agencies including the ***department*** [~~Corrections Cabinet~~], at a minimum, the following documents: annual budget income and expenditure statements; funding source financial reports; and annual independent audit report.

(5) The adult correctional facility shall have written fiscal policies and procedures adopted by the governing authority which include at a minimum: internal controls; petty cash; bonding; signature control on checks; resident funds; and employee expense reimbursement.

(6) There shall be an annual independent audit of the adult correctional facility. The facility shall have a written policy for inventory control of all property and assets and for purchasing and requisitioning supplies and equipment. The facility shall use a method which documents and authorizes wage payment to employees and consultants.

(7) The private provider shall develop and implement a plan for the dissemination of information about the adult correctional facility to the public, government agencies and the media. The plan shall be made available to all persons. All documents and records, except financial records, maintained by the private provider shall be deemed public records as defined by KRS 61.870 and be subject to the provisions of KRS 61.872 to 61.884.

(8) The adult correctional facility shall conform to all applicable zoning ordinances and all applicable state and local building codes, including the Kentucky Building Code, 1983 edition and subsequent modifications or replacements thereto.

(9) The adult correctional facility shall comply with all applicable laws and regulations of the local and state government regarding sanitation, food service, and safety and health. Copies of inspections completed by the appropriate authorities shall be sent to the ***department*** [~~Corrections Cabinet~~].

(10) The adult correctional facility shall comply with the provisions of the Life Safety Code, 1983 edition, National Fire Protection Association 101 and the regulations of the state or the local fire safety authority, whichever has primary jurisdiction over the adult correctional facility. Copies of the inspections completed by the appropriate authorities shall be sent to the ***department*** [~~cabinet~~].

(11) A minimum of sixty (60) square feet of floor space per resident shall be provided in the sleeping area of the adult correctional facility. Other areas to be provided shall include space and furnishings to accommodate group meetings of the residents, private counseling space with adequate furniture, and a visiting area.

(12) The adult correctional facility shall provide a variety of indoor and outdoor recreational and leisure time activities to include but not be limited to: television, radio, library materials and recreational facilities. Telephone facilities shall be available on the premises, which are accessible to residents.

(13) ***The adult correctional facility shall provide a level and quality of programs at least equal to those provided by state-operated facilities that house similar types of inmates and at a cost that provides the state with a savings of not less than ten percent (10%) of the cost of housing inmates in similar facilities and providing similar programs to those types of inmates in state-operated facilities.***

(14) The adult correctional facility shall be staffed twenty-four (24) hours per day seven (7) days per week. The staffing pattern shall be adequate to insure close inmate surveillance and maintenance of security within the facility. The staffing pattern shall address the program, transportation, and security needs of the facility. In determining security need, the proximity of the facility to neighborhood and schools shall be considered.

(15)[~~(14)~~] The adult correctional facility shall have a written personnel policy and employees shall be given a copy. The personnel policies shall include, at a minimum:

(a) Organization chart;

(b) Employment practices and procedures including in-service training and staff developing;

(c) Promotions;

(d) Job qualifications and job descriptions;

(e) Grievance and appeal procedures;

(f) Employee evaluation;

(g) Personnel records;

(h) Benefits;

(i) Holidays;

(j) Leave;

(k) Hours of work;

(l) Salaries (or the base for determining salaries);

(m) Disciplinary procedures;

(n) Termination; and

(o) Resignation.

(16)[~~(15)~~] The adult correctional facility shall maintain written job descriptions and job qualifications for all positions in the facility including: job title, responsibilities of the positions, and required minimum experience and education. An affirmative action program shall be adopted by the governing authority. The correctional facility shall maintain a current, accurate and confidential personnel record on each employee. The facility shall have written policy and procedures requiring an annual performance evaluation of all employees. This evaluation shall be reviewed and discussed with the employee.

(17)[~~(16)~~] Prior to employment, all employees of the adult correctional facility shall be subject to thorough background investigation to include criminal, medical and employment history. All security employees of the facility shall be at least twenty-one (21) years of age. The facility shall provide initial orientation for all new employees during the first week of employment. The facility shall comply with all governmental regulatory requirements related to employment and personnel practices. Personnel selection and assignments shall be based on merit.

(18)[~~(17)~~] The administrator of the adult correctional facility shall have a minimum of five (5) years experience in corrections or law enforcement and five (5) years experience in administration. The remaining staff of the facility shall have the same qualifications and training as the staff employed in similar positions in adult correctional facilities operated by the ***department*** [~~Corrections Cabinet~~].

(19)[~~(18)~~] The adult correctional facility shall provide the following services and programs, the extent to which shall be set forth in the contract between the state and the private provider but shall be consistent with the standards of the American Correctional Association:

(a) Health and medical services;

(b) Food services;

(c) Mail, telephone use, and visitation;

(d) Access to legal services and legal materials;

(e) Vocational training;

(f) Educational programs;

(g) Counseling services including personal counseling;

(h) Drug and alcohol counseling; and

(i) Sanitation services.

(20)[~~(19)~~] The adult correctional facility shall have a written fire and emergency plan for the facility which shall be communicated to all employees and inmates and updated, if needed. The facility's written emergency plan shall be conspicuously posted in the facility. The facility staff shall document the conduct of quarterly emergency drills.

(21)[~~(20)~~] The adult correctional facility shall have a written policy restricting the use of physical force to instances of justifiable self-protection, prevention of property damage and prevention of escapes, and only to the degree necessary. In compliance with applicable laws, the facility shall maintain and make public, written policies and procedures for conducting searches of residents and all areas of the facility, to control contraband and locate missing or stolen property. The facility shall have a written plan to control movement in and out of the facility. The facility shall have written procedures to account for the whereabouts of the residents at all times.

(22)[~~(21)~~] The adult correctional facility shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly. Isolated security spot checks shall be conducted daily. Items considered as contraband or items permitted in the facility shall be clearly defined in the facility's rules.

(23)[~~(22)~~] The adult correctional facility shall report all suspected felonies to the Kentucky State Police for investigation. A written report shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence. This report shall be placed in the inmate's folder and a copy forwarded to the ***department*** [~~Corrections Cabinet~~]. All ***these*** [~~such~~] occurrences shall be promptly reported to the ***department*** [~~cabinet~~] verbally prior to submission of the written report. Extraordinary or unusual occurrences shall include, but not be limited to:

(a) Death of a resident;

(b) Attempted suicide or suicide;

(c) Serious injury, whether accidental or self-inflicted;

(d) Attempted escape or escape from confinement;

(e) Fire;

(f) Riot;

(g) Battery, whether by a staff member or resident;

(h) Sexual assaults; and

(i) Occurrence of contagious or infectious disease, or illness within the facility.

(24)[~~(23)~~] Each adult correctional facility shall have written policy and procedures for emergency situations including but not limited to:

(a) Escapes;

(b) Taking of hostages;

(c) Riots;

(d) Food poisoning;

(e) Civil disturbances in the community;

(f) Natural disaster;

(g) Suicides; and

(h) Other deaths and disorder.

(25)[~~(24)~~] The adult correctional facility shall adopt a written policy and procedures which shall insure that the constitutional rights of inmates to voluntarily practice their own religious activities are protected, subject only to those limitations necessary to maintain order and security of the facility.

(26)[~~(25)~~] The adult correctional facility shall adopt a written policy which shall be implemented to insure that no inmate or group of inmates is in a position of control or authority over other inmates.

(27)[~~(26)~~] The adult correctional facility shall have a policy and procedure for recommending awarding of meritorious good time for inmates in accordance with policies and procedures of the ***department*** [~~cabinet~~]. The procedures shall include formation of a committee to include an administrator to screen all recommendations. The recommendations shall be sent to the ***department*** [~~Corrections Cabinet~~]. Recommendations for restoration of good time shall be screened by the same committee and forwarded to the ***department*** [~~Corrections Cabinet~~].

(28)[~~(27)~~] If the adult correctional facility operates a canteen, all profits ***shall*** [~~must~~] be spent for recreational programs for inmates. Prices shall be in accordance with those established by the ***Department of*** Corrections [~~Cabinet~~] Inmate Canteen Board.

(29)[~~(28)~~] The ***department*** [~~Corrections Cabinet~~] shall have the authority to conduct periodic, scheduled and unannounced inspections of the adult correctional facility during the term of the contract. The ***department*** [~~cabinet~~] shall generally observe and monitor the operations of the adult correctional facility at least once per week.

(30)[~~(29)~~] The contract shall provide a hold harmless clause ***by which*** [~~whereby~~] the private provider agrees to indemnify, defend, and hold harmless the Commonwealth, its officers, agents, and employees from:

(a) Any claims or losses for service rendered by the private provider, person, or firm performing or supplying services in connection with performance of the contract;

(b) Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the private provider, its officers, or employees in the performance of the contract;

(c) Any claims or losses resulting to any person or firm injured or damaged by the private provider, its officers, or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes; and

(d) Any failure of the private provider, its officers, or employees to observe Kentucky laws, including, but not limited to, labor laws and minimum wage laws.

(31)[~~(30)~~] The contract shall require that the private provider give a performance bond to the Commonwealth as obligee, in form satisfactory to the Commonwealth, executed by a surety company authorized to do business in Kentucky and in the penal sum [~~of~~] equal to: seventy percent (70%) multiplied by the maximum number of inmates to be housed in the adult correctional facility multiplied by three hundred sixty-five (365) and further multiplied by the rate to be paid the private provider per inmate per day.

(32)[~~(31)~~] The private provider shall provide public liability, property damage, and workers' compensation insurance, insuring, as they may appear, the interest of all parties of agreement against any and all claims which may arise out of the private provider's operations under the terms of this contract. ***If*** [~~In the event~~] any carrier of ***the*** [~~such~~] insurance exercises cancellation, notice shall be made immediately to the Commonwealth of ***the*** [~~such~~] cancellation.

Section 11. KRS 439.555 is amended to read as follows:

Any prisoner having served the term for which he has been sentenced for a crime he committed after June 16, 1972, less good time deduction, if any has been accumulated, shall be released by ***minimum expiration of sentence*** [~~conditional release~~].

Section 12. KRS 197.180 is amended to read as follows:

The ***Department of Corrections*** [~~cabinet~~] shall furnish to each convict, upon the termination of his sentence, or his release by pardon or parole with [~~not more than seventy-five dollars ($75)~~] and a suit of serviceable clothing, suitable to the season, and with transportation to a county within the borders of the Commonwealth. [~~The amount of money to be furnished to the convict shall be based upon his need as determined by the secretary or a person designated by the secretary in accordance with regulations of the cabinet.~~] The transportation shall be paid by the state and shall be nontransferable.

Section 13. KRS 532.115 is amended to read as follows:

The court in sentencing a person convicted of a felony, shall be authorized to run the sentence concurrent with any federal sentence received by that defendant for a federal crime and any sentence received by that defendant in another state for a felony offense. The time spent in federal custody and the time spent in custody in another state under the concurrent sentencing shall count as time spent in state custody; but the federal custody and custody in another state shall not include time spent on probation or parole or constraint incidental to release on bail. If the court does not specify that its sentence is to run concurrent with a specific federal sentence or sentence of another state, the sentence shall not run concurrent with any federal sentence or sentence of another state [~~The court, in sentencing a person convicted of a felony, shall be authorized to run such sentence concurrent with any federal sentence received by that~~ [same] ~~defendant for a federal crime. The time spent in federal custody under such concurrent sentencing shall count as time spent in state custody~~].

Section 14. The following KRS sections are repealed:

197.061 Property of inmates — Preservation of evidence or contraband.

439.095 Parole of persons confined in workhouse or penal farm of county containing city of first class.

The Committee Amendment No. 1 to **HB 533** is as follows:

Amend printed copy of **HB 533** on page 5, line 24, by deleting"***vocational or***"; and

On page 6, line 22, by inserting after "***in***" the words "***the application for or in***".

The Committee Amendment No. 2 to **HB 533** is as follows:

Amend printed copy of **HB 533** on page 2, line 2, by inserting after "the" the word "***department***" and by bracketing and striking through "cabinet"; and

On page 2, line 10, by bracketing and striking through "and the secretary"; and

On page 2, line 22, by deleting "***require these officers***"; and

On page 2, line 23, by deleting "***and employees to wear uniforms and to***"; and

On page 2, line 25, by deleting "***uniformed***"; and

On page 3, line 1, by inserting "***department***" after "The" and by bracketing and striking through "cabinets"; and

On page 4, line 12, by inserting "***;***" after "prisoners"; and

On page 4, line 17, by inserting "***; the***" after "labor" and by bracketing and striking through ", and" after "labor"; and

On page 4, line 17, by inserting "***;***" after "clothing" and by bracketing and striking through "," after "clothing"; and

On page 4, line 17, by removing the brackets and strikethroughs from "and"; and

On page 4, lines 19-22, by deleting all underlined language; and

On page 4, line 22, by bracketing and striking through "and"; and

On page 4, line 23, by inserting after “(3)” the following: “***Adopt, amend, and rescind, as the department deems necessary, administrative regulations governing the disposition of abandoned, lost, or confiscated property; and***

(4)”; and

On page 5, line 26, by deleting the underlined comma after “provided”; and

On page 6, lines 22 through 26, by deleting all underlined material, removing all brackets, placing an opening bracket before “Communications” on line 22, striking through all text not already stricken through, placing a closing bracket after the word “shall” on line 26, and inserting the following before the new opening bracket placed before “Communications” on line 22: “***Communications between a sexual offender or member of the offender's family and any employee of the program, made in the course of the offender's diagnosis or treatment in the program, shall***”; and

On page 19, line 24, by inserting “***,***” after “parole” and by placing an opening bracket before the word “with”, striking through that word, and removing the opening bracket before “~~not~~”; and

On page 19, line 25, by bracketing and striking through “and”; and

On page 19, line 26, by bracketing and striking through “with”; and

On page 21, line 1, by removing the brackets from and striking through the word “same”.

HB 660, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) “Hazardous position” means any position whose principal duties involve active law enforcement (including the positions of probation and parole officer, and Commonwealth detective), active fire suppression or prevention, or other positions, including but not limited to pilots ***and vehicle enforcement officers*** of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Corrections Cabinet in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the board in the manner prescribed by the board the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. The rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. Should the employer elect not to make the additional payment, then the employee may make the lump-sum payment in his own behalf or may pay in his own behalf in increments by payroll deduction each pay period prior to his retirement. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

HB 737, AN ACT relating to capital projects of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 45.750 TO 45.810 IS CREATED TO READ AS FOLLOWS:

(1) Beginning in October, 1992, the Finance and Administration Cabinet shall provide to the committee at its January, April, July, and October regular meetings a status report on the progress of capital projects which received line item authorization in either of the two (2) preceding sessions of the Kentucky General Assembly and which were:

(a) Financed with at least two hundred thousand dollars ($200,000) from the general fund, the road fund, restricted agency funds, federal funds, investment income, capital construction surplus funds, or bond surplus funds, excluding items of equipment; or

(b) State or agency bond-funded.

(2) For each capital project identified in subsection (1)(a) of this section, the status report shall include, but not be limited to, the:

(a) Project title;

(b) Amount authorized, including any project cost modification reported to the committee pursuant to KRS 45.760, 45.770, and 45.800;

(c) Source of funds;

(d) County or counties in which the project is located;

(e) Current phase of the project;

(f) Status of the assistance agreement, if applicable;

(g) Explanation of any delay or major change in the project; and

(h) Other information which might be useful in explaining the status of the project.

(3) For each capital project identified in subsection (1)(b) of this section, the status report shall include the information required in subsection (2) of this section as well as the status of the bond sale which shall include, but not be limited to:

(a) The estimated sale date or date sold;

(b) The bond issue series name or number;

(c) An explanation of the difference, if any, between the budgeted and actual annual debt service requirements; and

(d) If the bonds have not yet been sold, an explanation of why authorized bonds have not been sold.

HB 758, AN ACT relating to state leases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.803 is amended to read as follows:

(1) When an agency determines that it will need office or other space, the agency shall submit a request for the acquisition of the additional space to the Department for Facilities Management in the Finance and Administration Cabinet. Except in the case of an emergency as described at KRS 56.805(3), an agency shall submit its space request in writing to the department at least ninety (90) calendar days before the space requested will be required by the agency. In the case of an emergency, an agency shall communicate its space needs to the department pursuant to KRS 56.805(3) as soon as an agency knows that it will need the space. If the commissioner of the Department for Facilities Management determines that insufficient space has been allocated to the agency making the request and that it is appropriate to lease additional space for the agency making the request, he shall acquire the space required by lease as provided by KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190.

(2) The Department for Facilities Management shall review each agency space request to determine whether space suitable to meet the agency's reasonable needs may be available in a state-owned or occupied building. If it is determined that there is suitable space available in a state-owned or occupied building, the commissioner shall notify the agency by letter. A copy of the letter shall be kept on file.

(3) If it is determined that there is no suitable space available in a state-owned or occupied building, the department shall comply with the procedures set forth in this section in the leasing of space, except as otherwise provided in KRS 56.800 to 58.823 and KRS 43.050, 48.111, and 48.190.

(4) The department shall draw up general requirement specifications for the space required. These general requirement specifications shall not be changed except, at the discretion of the commissioner, when the lease process is initiated again pursuant to paragraph (c) of subsection (15) of this section or pursuant to paragraph (b) of subsection (16) of this section. The general requirement specifications shall be kept on file.

(5) In soliciting the interest of lessors who have property to let in a county where space is sought, the department shall comply with procedures established in this subsection.

(a) The department shall place newspaper advertisements. Each advertisement shall contain general information concerning the agency requirements for the space sought to reasonably inform persons having property to let within the county of the type of space wanted, the general location of the property, and the number of square feet needed, and shall state the last time, date, and place that written responses shall be received. When it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the Division of Real Properties, within the department, any deviations or variations shall be noted in the advertisement.

(b) If a daily newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in that newspaper.

(c) If there is not a daily newspaper published, and of general circulation, in the county where the space is sought, an advertisement shall be published one (1) time in a weekly newspaper published, and of general circulation, in the county where the space is sought and two (2) times in a daily newspaper not published, but of general circulation, in the county where space is sought.

(d) If neither a daily newspaper nor a weekly newspaper is published, and of general circulation, in the county where the space is sought, an advertisement shall be published two (2) times in a daily newspaper not published, but of general circulation, in the county where the space is sought, and a copy of the advertisement shall be posted in a conspicuous place in the county courthouse.

(e) If the Commonwealth intends to lease space in any county when the estimated annual rental charge will exceed one hundred thousand dollars ($100,000), the requirements established in paragraphs (a), (b), (c), and (d) of this subsection shall be followed. In addition, advertisements shall be published two (2) times in at least two (2) daily newspapers having broad circulation within the Commonwealth, to be designated by the secretary of the Finance and Administration Cabinet.

(f) When an advertisement is published in a daily newspaper, the advertisement shall appear on any consecutive Monday and Tuesday.

(g) The Department for Facilities Management may use any means available to notify landlords that advertisements have been placed.

(6) To respond to a newspaper advertisement, a property owner, or his representative, shall respond in writing on or before the time and date designated in the advertisement and shall state in the writing the type and location of the property, the name and address of the property owner, and the date of availability of the property. The department shall deal only with individuals who have submitted written responses on or before the time and date designated in the advertisement.

(7) All written responses submitted on or before the time and date designated shall be opened at the same time, publicly read, and kept on file by the department.

(8) Within five (5) days of the opening of written responses submitted on or before the time and date designated, the department shall mail general requirement specifications to each person who submitted a written response on or before the time and date designated. The same general requirement specifications shall be mailed to each person.

(9) After the general requirement specifications have been mailed, except as provided in paragraph (a) of subsection (13) of this section, the commissioner, and department employees under his supervision, may negotiate with persons who submitted written responses on or before the time and date designated. If in the course of negotiations, a person proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be in the Commonwealth's best interest to accept, but no mention of the acceptability thereof has been made in the advertisement placed pursuant to subsection (5) of this section, all other persons who submitted written responses on or before the time and date designated shall be advised by letter of the terms and conditions and shall be allowed to incorporate the terms and conditions in written proposals when submitted pursuant to subsection (12) of this section. A copy of each of these letters shall be kept on file.

(10) After the general requirement specifications have been mailed, the department shall inspect each space proposed to be leased to determine its suitability to the reasonable needs of the agency for whose use the property is sought. The owner of the property, or his representative, shall provide access to the property for such inspection. A report of the findings about each property inspected shall be submitted on a site evaluation form to the commissioner of the department. Completed site evaluation forms shall be kept on file.

(11) After the commissioner has reviewed the completed site evaluation forms, he shall send to each owner of property, or his representative, a letter informing the person of what would have to be done to bring the property up to general and specific requirement specifications. The commissioner's letter shall also invite each person to submit a written proposal on a form created by the Department for Facilities Management. A copy of the form shall be enclosed with each letter. A written proposal shall constitute a best and final offer. The department shall not consider a written proposal unless it is submitted on a department form on or before the time and date designated in the letter. A copy of each letter shall be kept on file.

(12) All written proposals submitted on or before the time and date designated shall be opened at the same time, publicly identified by the name of the property owner and the location of the property, and kept on file.

(13) Except pursuant to paragraph (b) of subsection (15) of this section, when the requirements of paragraph (a) of this subsection shall not apply, from the time that written proposals are opened until the awarding of a lease, the department:

(a) Shall not negotiate or agree to changes in the terms of written proposals except to correct technical errors;

(b) Shall log in all contacts between department employees and any person with an interest in the awarding of a lease. The log shall state the time, date, place, and a summary of the substance of each contact. Each log entry shall be signed by the department employee who was contacted. After the lease is awarded, the log shall be kept as a department record.

(14) ***(a)*** The commissioner shall assess the proposals, taking into account factors including, but not limited to: consultation with the head of the agency for whose use the space is sought; the location and accessibility of the property to the public; its condition and state of repair; its conformity with the requirements of occupational health and safety regulations; its conformity with applicable state fire, health, safety and sanitation

requirements; the proposed rental rates; utility and janitorial costs; agency moving costs; and whether the property proposed is in substantial conformity with the advertised requirements and general and specific requirement specifications.

(b) The commissioner shall give preference to properties in areas which have received, within the previous five (5) year period, state community development funds for revitalization if properties are offered at a competitive rate and meet the provisions of paragraph (a) of this subsection.

(15) The commissioner, relying exclusively on his assessment made pursuant to subsection (14) of this section, shall:

(a) Choose the best proposal in the interest of the Commonwealth;

(b) Be permitted to negotiate with a potential lessor if he was the only responsive and responsible potential lessor who submitted a proposal; or

(c) Except as provided in paragraph (b) of this subsection, reject all proposals when none is in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section and may, at his discretion, initiate the lease process again.

(16) (a) The commissioner shall award or decline to award a lease to the potential lessor who submitted the best proposal pursuant to paragraph (a) of subsection (15) of this section or who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section. However, the commissioner shall not award a lease to a potential lessor who negotiated with the commissioner pursuant to paragraph (b) of subsection (15) of this section if that potential lessor's proposal after negotiations was not in the Commonwealth's best interest to accept as assessed according to the factors stated in subsection (14) of this section, and the commissioner shall not award a lease to a person other than a potential lessor prescribed in this paragraph.

(b) If the commissioner declines to award a lease, he may, at his discretion, initiate the lease process again.

(17) The commissioner shall put in writing the justifications for his decisions made pursuant to subsections (15) and (16) of this section. This writing shall be kept on file.

(18) The department shall send to each person who submitted a written response on or before the time and date designated in the advertisement pursuant to subsection (6) of this section, but who was not awarded the lease, a letter stating the selected property to be leased, and that the person has a right to examine the leasing records relevant to the lease that was awarded. If the Capital Projects and Bond Oversight Committee, pursuant to KRS 56.823(2), will review the awarding of a lease, each letter shall state that fact. A copy of each of these letters shall be kept on file.

HB 778, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.515 is amended to read as follows:

(1) Service credit in the legislators' retirement plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase of military service credit pursuant to subsection (2) of this section, or by transfer of credit as provided in subsection (6) of this section.

(2) (a) Any active member of the legislators' retirement plan who has at least five (5) years of service credit in the legislators' retirement plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system fifty percent (50%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the legislators' retirement plan, to other service credit earned in the plan.

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked-up by the employer pursuant to KRS 6.505(2).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the armed forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the legislators' retirement plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (2) of this section.

(6) A member who has qualified for benefits pursuant to KRS 6.525(1) may, until July 1, ***1993*** [~~1991~~], transfer to the legislators' retirement plan up to ten (10) years of service credit which he has earned in the County Employees' Retirement System. If the member elects to transfer his County Employees' Retirement System service credit, that system shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the County Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred by the County Employees' Retirement System and the cost of the credit to the legislators' retirement plan, as determined by the actuary for the legislators' retirement plan. ***The member may pay by lump sum or by increments, as provided for in subsection (2)(b) of this section.***

HB 816, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase of military service credit pursuant to subsection (2) of this section, or by transfer of credit as provided in subsection (6) of this section.

(2) (a) Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with

the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system fifty percent (50%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked-up by the employer pursuant to KRS 6.505(2).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the armed forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (2) of this section.

(6) A member who has qualified for benefits pursuant to KRS 6.525(1) may[~~, until July 1, 1991,~~] transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in ***a retirement system administered by Kentucky Retirement Systems*** [~~the County Employees' Retirement System~~]. If the member elects to transfer his [~~County Employees' Retirement System~~] service credit, ***the*** [~~that~~] system ***from which the transfer is made*** shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the ***system from which the transfer is made*** [~~County Employees' Retirement System~~] in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred [~~by the County Employees' Retirement System~~] and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. ***The member may pay by lump sum or by installments, as provided for in subsection (2)(b) of this section, but an installment contract shall not extend for more than sixty (60) months.***

Section 2. KRS 21.370 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed

at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

(2) A member who has qualified for benefits pursuant to this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in ***a retirement system administered by Kentucky Retirement Systems*** [~~the Kentucky Employees' Retirement System~~]. If the member elects to transfer [~~his Kentucky Employees' Retirement System~~] service credit, ***the*** [~~that~~] system ***from which the transfer is made*** shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the ***system from which the transfer is made*** [~~Kentucky Employees' Retirement System~~] in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 21.400, when he pays the total difference between the amount of the funds transferred [~~by the Kentucky Employees' Retirement System~~] and the cost of the credit to the judicial retirement plan, as determined by the actuary for the judicial retirement plan. ***The member may pay by lump sum or by installments as set forth in KRS 6.515(2)(b), but an installment contract shall not extend for more than sixty (60) months.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

Any active member of the Judicial Retirement Plan may purchase service credit for service in the armed forces of the United States by using the procedures set forth in KRS 6.515(2). In applying KRS 6.515(2) to the Judicial Retirement Plan, Legislators' Retirement Plan shall be read as Judicial Retirement Plan, the reference to KRS 6.520 shall be read as a reference to KRS 21.400, the reference to KRS 6.505(2) shall be read as a reference to KRS 21.360(6), and any reference to a legislator shall be read as a reference to a member of the Judicial Retirement Plan.

Section 4. KRS 6.525 is amended to read as follows:

The legislators' retirement plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.370, 21.375, 21.380, 21.385, 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525 and 61.552 for the judicial retirement plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the legislators' retirement plan may combine his service credit with his service credit in the ***Judicial Retirement Plan,*** Teachers' Retirement System, Kentucky Employees' Retirement System, County Employees' Retirement System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680 (2)(a). A member of the legislators' retirement plan may retire at the completion of ***twenty-seven (27)*** [~~thirty (30)~~] or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above, to the judicial retirement plan shall also be read as a reference to the legislators' retirement plan, and any reference to the legislators' retirement plan shall also be read as a reference to the judicial retirement plan.

Section 5. KRS 21.400 is amended to read as follows:

(1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962 creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 through 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a circuit judge, compensation received as special commissioner of the former Court of Appeals.

If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

(2) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed and payable in accordance with the provisions of subsection (1) of this section, on the basis of the number of years of his actual service.

(3) ***A member may retire at the completion of twenty-seven (27) years or more of service in the Judicial Retirement Plan, or twenty-seven (27) years of combined service pursuant to KRS 6.525(2) and 61.680(2)(a), and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65).***

(4) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age***, or for each year that his years of service or combined service are lower that twenty-seven (27). The member shall be assessed the lower of the penalties based upon age or years of service.***

Section 6. KRS 6.520 is amended to read as follows:

(1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be two thousand two hundred ninety-one dollars sixty-six cents ($2,291.66).

(2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2)***,*** [~~and~~] (3)***, and (4)*** in the Judicial Retirement Plan for members of that plan[~~; except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date~~].

(3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982 that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement.

(4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982 who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement.

Section 7. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560 (4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, ***21.345 to 21.570,*** 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, ***Judicial Retirement Plan,*** Kentucky Employees Retirement System, County Employees Retirement System and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for thirty-year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation ***and early retirement penalties based upon years of service*** shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and, as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in such plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in such plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, is hereby exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan as provided for in KRS 6.535 when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up such employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of such transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by one (1) of these retirement systems, will have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, then an accumulation of all hours worked will be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System or Teachers' Retirement System, but who is a member of one (1) of such systems or is a former member of one (1) or more of such systems with valid service credit therein, will become eligible for service retirement benefits attributable to the amount of his actual service credit in each such system in which he has service credit when his combined service credit in all such systems, plus any service credit he has in the Judicial Retirement Plan or Legislators' Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system.

Section 8. KRS 21.410 is amended to read as follows:

(1). If upon examination of a member under his normal retirement age by one or more qualified physicians employed by the retirement board, it is certified to the satisfaction of the board that such member is so physically or mentally disabled as to be incapacitated for further performance of duty, and that such incapacity is likely to be permanent, the member may retire for disability. A member who so retires shall be entitled to receive commencing immediately a disability retirement allowance, payable monthly during his disability, in an amount equal to one-half (1/2) of the monthly service retirement allowance he would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of actual retirement.

(2) A member need not have completed eight (8) years of service in order to be eligible for benefits under subsection (1) of this section.

(3) The retirement board shall cause a member who has been retired for disability and who is still under his normal retirement age to undergo periodic examination by one or more qualified physicians employed by the board, to determine whether he continues to be incapacitated for service of the character required of a judge or commissioner. If upon any such examination it is certified to the satisfaction of the board that the member is no longer so incapacitated, or if the member refuses to submit to examination, the board shall terminate his disability retirement allowance. He shall then be entitled to such rights, if any, under subsection (2) or ***(4)***[~~(3)~~] of KRS 21.400 as he would have been entitled to had he voluntarily retired on the date he was retired for disability.

(4) Upon reaching his normal retirement age, a member who has been receiving a disability retirement allowance may apply for and receive, in lieu thereof, the service retirement allowance he would have been entitled to receive at normal retirement age had he voluntarily retired on the date he was retired for disability.

Section 9. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection ***(4)***[~~(3)~~] of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection ***(4)***[~~(3)~~] of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

The Committee Substitute to **HB 816** is as follows:

HB 816, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase of military service credit pursuant to subsection (2) of this section, or by transfer of credit as provided in subsection (6) of this section.

(2) (a) Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system fifty percent (50%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked-up by the employer pursuant to KRS 6.505(2).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the armed forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (2) of this section.

(6) A member who has qualified for benefits pursuant to KRS 6.525(1) may[~~, until July 1, 1991,~~] transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in ***a retirement system administered by Kentucky Retirement Systems*** [~~the County Employees' Retirement System~~]. If the member elects to transfer his [~~County Employees' Retirement System~~] service credit, ***the*** [~~that~~] system ***from which the transfer is made*** shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the ***system from which the transfer is made*** [~~County Employees' Retirement System~~] in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred [~~by the County Employees' Retirement System~~] and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. ***The member may pay by lump sum or by installments, as provided for in subsection (2)(b) of this section, but an installment contract shall not extend for more than sixty (60) months.***

Section 2. KRS 21.370 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

(2) A member who has qualified for benefits pursuant to this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in ***a retirement system administered by Kentucky Retirement Systems*** [~~the Kentucky Employees' Retirement System~~]. If the member elects to transfer [~~his Kentucky Employees' Retirement System~~] service credit, ***the*** [~~that~~] system ***from which the transfer is made*** shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the ***system from which the transfer is made*** [~~Kentucky Employees' Retirement System~~] in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 21.400, when he pays the total difference between the amount of the funds transferred [~~by the Kentucky Employees' Retirement System~~] and the cost of the credit to the judicial retirement plan, as determined by the actuary for the judicial retirement plan. ***The member may pay by lump sum or by installments as set forth in KRS 6.515(2)(b), but an installment contract shall not extend for more than sixty (60) months.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

Any active member of the Judicial Retirement Plan may purchase service credit for service in the armed forces of the United States by using the procedures set forth in KRS 6.515(2). In applying KRS 6.515(2) to the Judicial Retirement Plan, Legislators' Retirement Plan shall be read as Judicial Retirement Plan, the reference to KRS 6.520 shall be read as a reference to KRS 21.400, the reference to KRS 6.505(2) shall be read as a reference to KRS 21.360(6), and any reference to a legislator shall be read as a reference to a member of the Judicial Retirement Plan.

Section 4. KRS 6.525 is amended to read as follows:

The legislators' retirement plan shall be governed by KRS 21.560 and by provisions identical in terms with those provided in KRS 21.345(1) and (3), 21.370, 21.375, 21.380, 21.385, 21.410, 21.420, 21.425, 21.450, 21.460, 21.470, 21.480, 21.525 and 61.552 for the judicial retirement plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the legislators' retirement plan may combine his service credit with his service credit in the Teachers' Retirement System, Kentucky Employees' Retirement System, County Employees' Retirement

System, and State Police Retirement System at the time of his retirement, according to the procedure of KRS 61.680 (2)(a). A member of the legislators' retirement plan may retire at the completion of ***twenty-seven (27)*** [~~thirty (30)~~] or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above, to the judicial retirement plan shall also be read as a reference to the legislators' retirement plan, and any reference to the legislators' retirement plan shall also be read as a reference to the judicial retirement plan.

Section 5. KRS 21.400 is amended to read as follows:

(1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962 creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 through 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a circuit judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

(2) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed and payable in accordance with the provisions of subsection (1) of this section, on the basis of the number of years of his actual service.

(3) ***A member may retire at the completion of twenty-seven (27) years or more of service in the Judicial Retirement Plan, or twenty-seven (27) years of combined service pursuant to KRS 6.525(2) and 61.680(2)(a), and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65).***

(4) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age***, or for each year that his years of service or combined service are lower that twenty-seven (27). The member shall be assessed the lower of the penalties based upon age or years of service.***

Section 6. KRS 6.520 is amended to read as follows:

(1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be two thousand two hundred ninety-one dollars sixty-six cents ($2,291.66).

(2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400(2)***,*** [~~and~~]

(3)***, and (4)*** in the Judicial Retirement Plan for members of that plan[~~, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date~~].

(3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982 that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement.

(4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982 who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement.

Section 7. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560 (4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits.

(b) Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for thirty-year retirement but not the amount of benefits. ***Service credit in the Judicial Retirement Plan, as governed by KRS 21.345 to 21.570, shall be used to determine eligibility for service retirement pursuant to KRS 61.559 but not for determination of benefits.***

(c) The computation of benefits ***pursuant to paragraph (a) of this subsection*** shall be based on the applicable formula in each system and service credit in each system, but the final compensation ***and early retirement penalties based upon years of service*** shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(d)[~~(b)~~] The provisions of paragraph (a) of this subsection shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and, as a result of an act in line of duty, becomes disabled or deceased.

(e)[~~(c)~~] If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in such plan, in accordance with

KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in such plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, is hereby exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan as provided for in KRS 6.535 when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up such employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of such transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by one (1) of these retirement systems, will have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, then an accumulation of all hours worked will be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System or Teachers' Retirement System, but who is a member of one (1) of such systems or is a former member of one (1) or more of such systems with valid service credit therein, will become eligible for service retirement benefits attributable to the amount of his actual service credit in each such system in which he has service credit when his combined service credit in all such systems, plus any service credit he has in the Judicial Retirement Plan or Legislators' Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system.

Section 8. KRS 21.410 is amended to read as follows:

(1) If upon examination of a member under his normal retirement age by one or more qualified physicians employed by the retirement board, it is certified to the satisfaction of the board that such member is so physically or mentally disabled as to be incapacitated for further performance of duty, and that such incapacity is likely to be permanent, the member may retire for disability. A member who so retires shall be entitled to receive commencing immediately a disability retirement allowance, payable monthly during his disability,

in an amount equal to one-half (1/2) of the monthly service retirement allowance he would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of actual retirement.

(2) A member need not have completed eight (8) years of service in order to be eligible for benefits under subsection (1) of this section.

(3) The retirement board shall cause a member who has been retired for disability and who is still under his normal retirement age to undergo periodic examination by one or more qualified physicians employed by the board, to determine whether he continues to be incapacitated for service of the character required of a judge or commissioner. If upon any such examination it is certified to the satisfaction of the board that the member is no longer so incapacitated, or if the member refuses to submit to examination, the board shall terminate his disability retirement allowance. He shall then be entitled to such rights, if any, under subsection (2) or ***(4)***[~~(3)~~] of KRS 21.400 as he would have been entitled to had he voluntarily retired on the date he was retired for disability.

(4) Upon reaching his normal retirement age, a member who has been receiving a disability retirement allowance may apply for and receive, in lieu thereof, the service retirement allowance he would have been entitled to receive at normal retirement age had he voluntarily retired on the date he was retired for disability.

Section 9. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection ***(4)***[~~(3)~~] of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection ***(4)***[~~(3)~~] of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection (2) of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

HB 820, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of a proposed administrative regulation:

(a) Regulatory impact analysis;

(b) Tiering statement;

(c) Local mandate impact statement ***and the fiscal note required by KRS 6.950 to 6.965***, if the administrative regulation relates to any aspect of local government or any service provided ***by a local government*** [~~thereby~~];

(d) Federal mandate comparison, if applicable; and

(e) The summaries provided for in KRS 13A.2261, 13A.2264, and 13A.2267, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

HB 858, AN ACT relating to administrative hearings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Administrative agency" or "agency" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity authorized by law to conduct administrative hearings. The term does not include any unit in the legislative or judicial branches or any city, county, urban-county, charter county, or any other local unit of government contained in KRS Chapters 74 to 109.

(2) "Administrative hearing" or "hearing" means any type of administrative proceeding conducted by an agency as required or permitted by statute or regulation to adjudicate the legal rights, duties, privileges or immunities of a named person.

(3) "Party" means:

(a) The named person whose legal rights, duties, privileges, or immunities are being adjudicated in the administrative hearing;

(b) Any other person who is duly granted intervention in an administrative hearing; and

(c) Any agency named as a party to the adjudicatory proceeding or entitled or permitted by the law being enforced to participate fully in the administrative hearing.

(4) "Agency head" means the individual or collegial body in an agency that is responsible for entry of a final order.

(5) "Recommended order" means the whole or part of a preliminary hearing report to an agency head for the disposition of an administrative hearing.

(6) "Final order" means the whole or part of the final disposition of an administrative hearing, whenever made effective by an agency head, whether affirmative, negative, injunctive, declaratory, agreed, or imperative in form.

(7) "Hearing officer" means the individual, duly qualified and employed pursuant to this chapter, assigned by an agency head as presiding officer for an administrative hearing or the presiding member of the agency head.

SECTION 2. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.

(2) The provisions of this chapter shall not apply to investigations or any other type of information gathering or fact finding activities.

(3) The following administrative hearings shall be exempt from application of this chapter:

(a) Public hearings required in KRS Chapter 13A for the promulgations of administrative regulations;

(b) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35; and

(c) Any other administrative hearing procedure approved for exemption in compliance with Section 17 of this Act and enacted in conforming legislation by the 1994 Regular Session of the General Assembly;

(d) Any administrative hearing or portion thereof certified as exempt by the Attorney General when:

1. The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

2. Conformity with the requirement of this chapter from which exemption is sought would be so unreasonable or so impractical as to deny due process because of undue delay in the conduct of administrative hearings; or.

3. The hearing procedures represent either the preliminary stages or the review stages of a multilevel hearing process if the provisions of this chapter are applied at some level within a multilevel process.

(4) The Attorney General shall not exempt an agency from any requirement of this chapter until the agency establishes alternative procedures, by administrative regulation, which insofar as practical shall be consistent with the intent and purpose of this chapter. When regulations for alternative procedures are submitted to the Administrative Regulation Review Subcommittee, they shall be accompanied by the request for exemption and the approval of exemption from the Attorney General. The decision of the Attorney General, whether affirmative or negative, shall be subject to judicial review in the Franklin Circuit Court within thirty (30) days of the date of issuance. The court shall not overturn a decision of the Attorney General unless the decision was arbitrary or capricious or contrary to law.

(5) Except to the extent precluded by another provision of law, a person may waive any procedural right conferred upon that person by this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) An agency head may exercise all powers conferred on an agency relating to the conduct of administrative hearings, and he may delegate conferred powers to a hearing officer or a member of a collegial body that serves as an agency head. An agency head may not, however, delegate the power to issue a final order unless specifically authorized by statute.

(2) In securing hearing officers as necessary to conduct administrative hearings under the jurisdiction of the agency, an agency may:

(a) Employ hearing officers;

(b) Contract with another agency for hearing officers; or

(c) Contract with private attorneys through personal service contract.

(3) A hearing officer shall possess and meet qualifications as the Department of Personnel and the employing agency may find necessary to assure competency in the conduct of an administrative hearing. The qualifications in this subsection shall not, however, apply to a member of a board, commission, or other collegial body who may serve as a hearing officer in his capacity as a member of the collegial body.

(4) All hearing officers, including members of collegial bodies who serve as hearing officers, shall receive training necessary to prepare them to conduct a competent administrative hearing. The training shall pertain to the conduct of administrative hearings generally and to the applications of the provisions of this chapter, specifically. The Department of Personnel shall establish by administrative regulation minimum standards concerning the length of training, course content, and instructor qualifications. Actual training may be conducted by an agency or any other organization, if the training program offered has been approved by the Department of Personnel as meeting minimum standards.

(5) A person who has served as an investigator or prosecutor in an administrative hearing or in its pre-adjudicative stage, shall not serve as hearing officer or assist or advise a hearing officer in the same proceeding. This shall not be construed as preventing a person who has participated in a determination of probable cause or other equivalent preliminary determination, from serving as a hearing officer in the same proceeding.

(6) (a) A hearing officer, agency head, or member of a agency head who is serving as a hearing officer, shall voluntarily disqualify himself and withdraw from any case in which he cannot afford a fair and impartial hearing or consideration. Any party may request the disqualification of a hearing officer, agency head, or member of the agency head by filing an affidavit, upon discovery of facts establishing grounds for a disqualification, stating the particular grounds upon which he claims that a fair and impartial hearing cannot be accorded. The request for disqualification and the disposition of the request shall be a part of the official record of the proceeding.

(b) Grounds for disqualification of a hearing officer shall include, but shall not be limited to, the following:

1. Serving as an investigator or prosecutor in the proceeding or the preadjudicative stages of the proceeding;

2. Participating in an ex parte communication which would prejudice the proceedings;

3. Having a pecuniary interest in the outcome of the proceeding; or

4. Having a personal bias toward any party to a proceeding which would cause a prejudgment on the outcome of the proceeding.

SECTION 4. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) In any administrative hearing, the agency shall conduct the hearing as soon as practicable and shall give notice of the hearing to the parties not less than twenty (20) days in advance of the date set for the hearing. An agency shall make every effort to schedule a hearing or a date and at a location that is convenient to the parties involved.

(2) The notice required by subsection (1) of this section shall be served on the parties by certified mail, return receipt requested, to the last known address of the parties, by personal service, or by any other means which demonstrates actual notice was received. When any indispensable and necessary party to an adjudicatory proceeding consists of a large class, the notice may be served on a reasonable number thereof as representatives of the class.

(3) The notice required by this section shall be in plain language and shall include:

(a) A statement of the date, time, place, and nature of the hearing;

(b) The name, official title, mailing address, and phone number of the hearing officer;

(c) The names, official titles, mailing addresses, and phone numbers of all parties to the hearing, including the counsel or representative of the agency;

(d) A statement of the issues involved in sufficient detail to give the parties reasonable opportunity to prepare evidence and argument;

(e) A reference to the specific statutes and regulations which relate to the issues involved;

(f) A statement advising the person of his right to legal counsel;

(g) A statement of the parties' right to examine any evidence to be used at the hearing and any exculpatory information in the agency's possession; and

(h) A statement advising that any party who fails to attend or participate as required at any stage of the administrative hearing process may be held in default under this chapter.

(4) If an agency decides not to conduct an administrative hearing in response to a petition, the agency shall notify the petitioner of its decision in writing, with a brief statement of the agency's reasons and any administrative review available to the petitioner.

SECTION 5. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

The hearing officer shall grant a petition for intervention if:

(a) The petition is submitted in writing to the hearing officer, with copies mailed to all parties named in the notice of the hearing, at least seven (7) days before the hearing;

(b) The petition states facts demonstrating that the petitioner's legal rights, duties, privileges, immunities, or other legal interests may be substantially affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and

(c) The hearing officer determines that the interests of justice and the orderly and prompt conduct of the proceedings will not be impaired by allowing the intervention.

(2) The hearing officer may grant a petition for intervention upon determining that the intervention sought is in the interests of justice and will not impair the orderly and prompt conduct of the proceedings.

(3) If a petitioner qualifies for intervention, the hearing officer may impose conditions upon the intervenor's participation in the proceedings, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting the intervenor's participation to designated issues in which the intervenor has a particular interest demonstrated by the petition;

(b) Limiting the intervenor's use of discovery, cross-examination, and other procedures so as to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two (2) or more intervenors to combine their presentations of evidence and argument, cross-examination, discovery, and other participation in the proceedings.

(4) The hearing officer, at least three (3) days before the hearing, shall issue an order granting or denying each pending petition for intervention, specifying any conditions, and briefly stating the reasons for the order. The hearing officer shall promptly give notice of an order granting, denying, or modifying intervention to the petitioner for intervention and to all parties.

SECTION 6. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) A hearing officer may convene and conduct a prehearing conference upon reasonable notice to all parties to deal with exploration of settlement possibilities, preparation of stipulations, clarification of issues, rulings on witnesses, taking of evidence, issuance of subpoenas and orders, and other matters as will promote the orderly and prompt conduct of the hearing.

(2) Upon conclusion of a prehearing conference, the hearing officer shall issue a prehearing order incorporating all matters determined at the prehearing conference. If a prehearing conference is not held, the hearing officer may issue a prehearing order, based on the pleadings, to regulate the conduct of the hearing.

(3) Except to the extent precluded by another provision of law, informal settlement of matters that may make unnecessary more elaborate proceedings under this chapter is encouraged. Agencies shall establish by administrative regulation specific procedures to facilitate informal settlement of matters. This subsection shall not be construed, however, as requiring any party to settle a matter pursuant to informal procedures.

SECTION 7. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) A hearing officer shall preside over the conduct of an administrative hearing and shall regulate the course of the proceedings in a manner which will promote the orderly and prompt conduct of the hearing. When a prehearing order has been issued, the hearing officer shall regulate the hearing in conformity with the prehearing order.

(2) The hearing officer, at appropriate stages of the proceedings, shall give all parties full opportunity to file pleadings, motions, objections, and offers of settlement. The hearing officer, at appropriate stages of the proceedings, may give all parties full opportunity to file briefs, proposed findings of fact and conclusions of law, and proposed recommended or final orders. A party shall serve copies of any filed item on all parties by mail or any other means prescribed by agency regulation.

(3) The hearing officer may issue subpoenas and discovery orders upon his own motion or when requested by a party. When an order is disobeyed, any party may apply to the Circuit Court of the judicial circuit in which the administrative hearing is held for an order requiring obedience. Failure to comply with an order of the court shall be cause for punishment as a contempt of the court.

(4) To the extent necessary for the full disclosure of all relevant facts and issues, the hearing officer shall afford all parties the opportunity to respond, present evidence and argument, conduct cross-examination, and submit rebuttal evidence, except as restricted by limited grant of intervention or a prehearing order.

(5) Any party to an administrative hearing may participate in person or be represented by counsel. If the party is a corporation or other artificial person, a duly authorized representative may participate. A party may be represented by other professionals if appropriate and if permitted by the agency by administrative regulation.

(6) If a party fails to attend or participate in a prehearing conference, hearing, or other stage of the administrative hearing process, the hearing officer may adjourn the proceedings and issue a default order or may continue the proceedings without the participation of the defaulting party, having due regard for the interests of justice and the orderly and prompt conduct of the proceedings. A default order shall be considered a recommended order and shall be processed as provided in Section 10 of this Act.

(7) A hearing officer may conduct all or part of an administrative hearing, or a prehearing conference, by telephone, television, or other electronic means, if each party to the hearing has an opportunity to hear, and, if technically feasible, to see, the entire proceeding as it occurs, and if each party agrees in writing.

(8) An administrative hearing shall be open to the public unless specifically closed pursuant to a provision of law. If an administrative hearing is conducted by telephone, television, or other electronic means, and is not closed, public access shall be satisfied by giving the public an opportunity, at reasonable times, to hear or inspect the agency's record.

SECTION 8. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) In an administrative hearing, findings of fact shall be based exclusively on the evidence on the record. The hearing officer shall exclude evidence that is irrelevant, immaterial, unduly repetitious, or excludable on constitutional or statutory grounds or on the basis of evidentiary privilege recognized in the courts of this Commonwealth. Hearsay evidence may be admissible, but it shall not be sufficient in itself to support an agency's findings of facts unless it would be admissible over objections in civil actions.

(2) All testimony shall be made under oath or affirmation. Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party. Any party shall have the right to inspect the documentary or tangible evidence relating to an administrative hearing either in person or by counsel. Copies of documentary evidence may be obtained upon the payment of a fee, except documents protected from disclosure by state or federal law. Nothing in this section shall be construed as giving a party the right to examine or copy the personal notes, observations or conclusions of the agency staff, unless exculpatory in nature, nor shall it be construed as allowing access to the work product of counsel for the agency. Conditions for examining and copying agency records, fees to be charged, and other matters pertaining to access to these records shall be governed by KRS 61.870 to 61.884.

(3) Objections to evidentiary offers may be made by any party and shall be noted in the record.

(4) The hearing officer may take official notice of facts which are not in dispute or of generally recognized technical or scientific facts within the agency's specialized knowledge. The hearing officer shall notify all parties, either before or during the hearing, or in preliminary reports or otherwise, of any facts so noticed and their source. All parties shall be given an opportunity to contest facts officially noticed.

(5) The agency shall cause all testimony, motions, and obligations in a hearing to be accurately and completely recorded. Any person, upon request, may receive a copy of the recording or a copy of the transcript, if the hearing has been transcribed, at the discretion of the agency, unless the hearing is closed by law. The agency may prepare a transcript of a hearing or a portion of a hearing upon request but the party making the request shall be responsible for the transcription costs. The form of all requests and fees charged shall be consistent with KRS 61.870 to 61.884.

SECTION 9. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) Unless required for the disposition of ex parte matters specifically authorized by statute, a hearing officer shall not communicate off the record with any party to the hearing or any other person who has a direct or indirect interest in the outcome of the hearing, concerning any substantive issue, while the hearing is pending.

(2) The prohibition stated in subsection (1) shall not apply to:

(a) Communication with other agency staff, if the communication is not an ex parte communication received by staff; and

(b) Communication among members of a collegial body or panel which by law is serving as a hearing officer.

(3) When an ex parte communication occurs, the hearing officer shall note the occurrence for the record, and, if in the opinion of the hearing officer, the nature of the communication could have a substantive

bearing on the outcome of the hearing, he shall place on the record a copy of the communication, if it was written, or a memorandum of the substance of the communication, if it was oral.

SECTION 10. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) The hearing officer shall complete and submit to the agency head, no later than sixty (60) days after receiving a copy of the official record of the proceeding, a written recommended order which shall include his findings of fact, conclusion of law, and recommended disposition of the hearing, including recommended penalties, if any.

(2) If an extension of time is needed by the hearing officer to complete and submit his recommended order to the agency head, the hearing officer shall show good cause to the agency head, in writing, and based upon substantial proof, that an extension of time is needed.

(3) If the agency head, after a showing of good cause, grants the hearing officer an extension of time,

(a) The extension shall not exceed thirty (30) days from the date the extension was granted;

(b) The statement granting the extension shall be included in the record of the hearing; and

(c) Notice of the extension shall be sent to all parties.

(4) A copy of the hearing officer's recommended order shall also be sent to each party in the hearing and each party shall have fifteen (15) days within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order shall be in the same manner as provided for notification in Section 4 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) In making the final order, the agency head shall consider the whole record or those portions of the record as may be cited by the parties, and any exceptions duly filed to a recommended order.

(2) The agency head may accept the recommended order of the hearing officer and adopt it as the agency's final order, or it may reject or modify all or part of the recommended order.

(3) The final order in an administrative hearing shall be in writing and stated in the record if the final order differs from the recommended order, it shall include separate statements of findings of fact and conclusions of law. The final order shall also include the effective date of the order and a statement advising parties fully of available appeal rights.

(4) The agency head shall render a final order in an administrative hearing within ninety (90) days after:

(a) The conclusion of the hearing in which there was no hearing officer; or

(b) The hearing officer submits a recommended order to the agency head.

(5) Unless waived by the party, a copy of the final order shall be transmitted to each party or to his attorney of record in the same manner as provided in Section 4.

(6) This section shall not apply to disposition pursuant to subsection (3) of Section 6 of this Act.

(7) If, pursuant to statute, an agency may review the final order of another agency, the review is deemed to be a continuous proceeding as if before a single agency. The final order of the first agency is treated as a recommended order and the second agency functions as though it were reviewing a recommended order in accordance with Section 11.

SECTION 12. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) In each administrative hearing, an agency shall keep an official record of the proceedings which shall consist of:

(a) All notices, pleadings, motions, and intermediate rulings;

(b) Any prehearing orders;

(c) Evidence received and considered;

(d) A statement of matters officially noticed;

(e) Proffers of proof and objections and rulings thereon;

(f) Proposed findings, requested orders, and exemptions;

(g) A copy of the recommended order, exceptions filed to the recommended order, and a copy of the final order;

(h) All requests by the hearing officer for an extension of time, and the response of the agency head;

(i) Ex parte communications placed upon the record by the hearing officer; and

(j) A recording or transcript of the proceedings.

SECTION 13. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) All final orders of an agency shall be subject to judicial review in accordance with the provisions of this chapter. A party shall institute an appeal by filing a petition in the Circuit Court of venue as provided in the agency's enabling statutes within thirty (30) days after the final order of the agency is mailed or delivered by personal service. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

(2) A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged and within any other agency authorized to exercise administrative review. A court may relieve a petitioner of the requirement to exhaust any or all administrative remedies, to the extent that the administrative remedies are inadequate, or requiring their exhaustion would result in irreparable harm disproportionate to the public benefit derived from requiring exhaustion.

(3) Within twenty (20) days after the service of the petition, or within further time allowed by the court, the agency shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent correction or additions to the official record.

(4) A petition for judicial review shall not automatically stay a final order pending the outcome of the review, but the petitioner may request such a stay.

SECTION 14. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) Review of a final order shall be conducted by the court without a jury and shall be confined to the record, unless there is fraud or misconduct involving a party engaged in administration of this chapter. The court, upon request, may hear oral argument and receive written briefs.

(2) The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the final order or it may reverse the final order, in whole or in part, and remand the case for further proceedings if it finds the agency's final order is:

(a) In violation of constitutional or statutory provisions;

(b) In excess of the statutory authority of the agency;

(c) Clearly without support of substantial evidence on the whole record;

(d) Arbitrary, capricious, or characterized by abuse of discretion;

(e) Based on an ex parte communication which substantially prejudiced the rights of any party and likely affected the outcome of the hearing; or

(f) Prejudiced by a failure of the person conducting a proceeding to be disqualified pursuant to subsection (6) of Section 3 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

Any aggrieved party may appeal any final judgment of the Circuit Court under this chapter to the Court of Appeals in accordance with the Kentucky Rules of Civil Procedure.

SECTION 16. A NEW SECTION OF KRS CHAPTER 13B IS CREATED TO READ AS FOLLOWS:

(1) An agency shall have authority to promulgate administrative regulations that are necessary to carry out the provisions of this chapter, including the authority to adopt provisions of the chapter by administrative regulations prior to the effective date of the Act, provided the regulations do not conflict with existing statutes.

(2) By July 1 of each odd-numbered year, each agency shall submit to the Legislative Research Commission a report on the status of the administrative hearing process in that agency. The report shall include a compilation of statistical data, a summary of complaints received and the resolution of the complaints, and other information as may be requested by the Legislative Research Commission in order to evaluate the effectiveness of administrative hearing procedures. The report shall also include any recommendations an agency may have for improving the administrative hearing process in Kentucky.

Section 17. (1) This Act shall become effective on the normal effective date for legislation enacted by the 1994 Regular Session of the General Assembly.

(2) By no later than September 30, 1992, each administrative agency, as defined by Section 1 of this Act, shall submit to the Legislative Research Commission a statement of which existing statutes need to be repealed or amended to conform to the procedures established by this Act. If the agency believes that its unique circumstances warrant its being excluded from the provisions of this Act, it shall also provide the commission with a statement to that effect, including a detailed justification for exclusion, but the submission of a statement requesting exclusion shall not eliminate the obligation of submitting the statement relating to conformance.

(3) With the assistance of the staff of the Legislative Research Commission, each agency shall develop legislation to conform its procedures to the provisions of this Act. This bill draft shall be completed and submitted to the Legislative Research Commission by no later than June 30, 1993. The Legislative Research Commission shall thereupon refer this draft to the appropriate interim joint committee for its consideration and action prior to the 1994 Regular Session of the General Assembly.

(4) If an agency has not submitted the proposed legislation required by subsection (3) of this section on or before June 30, 1993, the Legislative Research Commission shall immediately notify the secretary of the Finance and Administration Cabinet and the State Treasurer, and no state funds shall be released to that agency beginning July 15, 1993, until the Legislative Research Commission certifies to these officials that the proposed legislation has been received.

HB 926, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing adstrtive regulation, a proposed administrative regulation, an emergency administrative regulation, and the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions of higher education pertaining to students attending or applicants to such institutions or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that ***an*** [~~a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency~~] administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(7) [~~"Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;~~

~~(8)~~] "Filed" means that ***an*** [~~a proposed administrative regulation, proposed amendment to an existing administrative regulation, proposed repeal of an existing administrative regulation, or emergency~~] administrative regulation has been submitted to the Commission in accordance with this chapter;

(8) "Promulgated" means that an administrative body, after having obtained the prior approval or review required by subsection (3) of Section 6 of this Act if applicable, has approved an administrative regulation for filing with the Legislative Research Commission;

(9) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(10) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(11) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(12) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 2. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of [~~proposed administrative regulations, review of existing~~] administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) Review and comment upon administrative regulations submitted to it by the Commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

(d) Conduct [~~such~~] other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

(a) That [~~a proposed administrative regulation, proposed amendment to~~] an administrative regulation[~~, emergency administrative regulation, or existing administrative regulation~~]:

1. Is wrongfully promulgated;

2. Appears to be in conflict with an existing statute;

3. Appears to have no statutory authority for its promulgation;

4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;

5. Fails to use tiering when tiering is applicable;

6. Is in excess of the administrative body's authority; or

7. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute;

(c) That an [~~existing~~] administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit [~~such~~] data and information as required by the subcommittee in the performance of its duties under this chapter and no administrative body shall fail to provide the information or data required.

Section 3. KRS 13A.040 is amended to read as follows:

The director of the Legislative Research Commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of [~~proposed administrative regulations, proposed amendment to existing administrative regulations, proposed repeal of existing administrative regulations, emergency~~] administrative regulations, and regulatory impact analysis for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) Maintain a file of material incorporated by reference, including superseded or ineffective material incorporated by reference;

(7) Prepare the Kentucky Administrative Regulations Service;

(8) Make certifications required by this chapter;

(9) Correct errors that do not change the substance of an administrative regulation, including, but not limited to, typographical errors, errors in format, and grammatical errors;

(10) Refuse to accept for filing [~~proposed~~] administrative regulations that do not conform to the provisions of KRS 13A.222 and 13A.224, and notify the administrative body in writing of the reasons for refusing to accept ***an*** [~~proposed~~] administrative regulation for filing; and

(11) Perform such other duties as required by the Commission or by a subcommittee.

Section 4. KRS 13A.050 is amended to read as follows:

(1) The Legislative Research Commission shall compile, publish and distribute the administrative regulations filed by administrative bodies. This compilation shall be known as the Kentucky Administrative Regulations Service and shall constitute the official state publication of administrative regulations.

(2) ***(a)*** There is hereby created a publication known as "The Administrative Register" to be printed and published on a monthly basis by the Legislative Research Commission for the purpose of giving notice of [~~proposed~~] administrative regulations filed in accordance with this chapter.

(b) Every administrative regulation forwarded to the Legislative Research Commission shall have its complete text printed in the Administrative Register along with the accompanying statements required by KRS 13A.190 and 13A.210 through 13A.250.

(c) Within five (5) work days of its publication in the Administrative Register, an administrative body shall:

1. Review the text and accompanying statements of its administrative regulation; and

2. Notify the regulations compiler, in writing, of errors or the absence thereof.

(3) The Administrative Register shall be published the first day of each month and shall include all [~~proposed~~] administrative regulations received by the Legislative Research Commission by 12:00 noon, eastern time, on the fifteenth day of the preceding month. When the fifteenth day falls on a Saturday, Sunday, or holiday the deadline is the ***work*** [~~working~~] day which immediately precedes the Saturday, Sunday, or holiday.

(4) The compiler shall cause to be prepared a certificate to the effect that the text of the administrative regulations as printed in this service is correct. One (1) copy of the Kentucky Administrative Regulations Service with the original certificate therein shall be maintained in the Office of the Secretary of State. All other copies shall contain a printed copy of the certificate and shall constitute prima facie evidence of the law in all courts and proceedings.

(5) The Commission shall prescribe reasonable fees for subscription to the Kentucky Administrative Regulations Service and the Administrative Register. All fees paid to the Commission for these publications shall be placed in the State Treasury to the credit of a revolving, trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this section.

(6) Copies of regulatory impact analysis shall be made available to any interested party upon request to the Legislative Research Commission. The Commission may prescribe reasonable fees for duplication services and all fees paid to the Commission for duplication services shall be placed in the State Treasury to the credit of a revolving trust or agency fund account, for use by the Legislative Research Commission in carrying out the provisions of this subsection.

Section 5. KRS 13A.080 is amended to read as follows:

Each issue of the Administrative Register shall contain a notice describing the regulation review process and the methods by which the public may comment upon ***administrative*** [~~proposed~~] regulations, including the procedure for contacting agencies about public hearings.

Section 6. KRS 13A.120 is amended to read as follows:

(1) ***(a)*** An administrative body may ***promulgate*** [~~adopt~~] administrative regulations to implement a statute only when the***:***

1. Act of the General Assembly creating or amending the statute specifically authorizes the ***promulgation*** [~~adoption~~] of ***administrative*** [~~such~~] regulations***;*** or

2. Promulgation of administrative regulations is [~~such regulations are~~] required by federal law ***or regulations***, in which case ***administrative*** [~~such~~] regulations shall be no more stringent than the federal law or regulations.

(b) An administrative body that promulgates an administrative regulation that is required by federal law or regulation shall comply with the requirements of KRS Chapter 13A.

(2) An administrative body shall not promulgate administrative regulations:

(a) When a statute prohibits the administrative body from promulgating administrative regulations;

(b) When the administrative body is not authorized by statute to promulgate administrative regulations;

(c) When a statute prohibits the administrative body from regulation of that particular matter;

(d) When the administrative body is not authorized by statute to regulate that particular matter;

(e) When a statute prescribes the same or similar procedure for the matter regulated;

(f) When a statute sets forth a comprehensive scheme of regulation of the particular matter;

(g) On any matter which is not clearly within the jurisdiction of the administrative body;

(h) On any matter which is beyond the statutory authorization of the administrative body to promulgate administrative regulations or which is not clearly authorized by statute; and

(i) Which modify or vitiate a statute or its intent.

(3) If a statute requires the submission of ***an*** [~~a proposed~~] administrative regulation to an official or [~~another~~] administrative body, ***other than the promulgating official or administrative body,*** for review or approval, an administrative body shall not file an administrative regulation without first having obtained ***that*** [~~such~~] review or approval.

(4) Any administrative regulation in violation of this section or the spirit thereof is null, void, and unenforceable.

(5) No administrative body, other than the Court of Justice, shall issue rules.

(6) No administrative body shall issue standards or by any other name issue a document of any type where an administrative regulation is required or authorized by law.

Section 7. KRS 13A.170 is amended to read as follows:

The only types [~~Three (3) methods~~] of [~~promulgating~~] administrative regulations ***that may be promulgated*** are [~~authorized~~]:

(1) An ordinary administrative regulation;

(2) An emergency administrative regulation; and

(3) An administrative regulation in contemplation of a statute.

Section 8. KRS 13A.200 is amended to read as follows:

An administrative regulation in contemplation of a statute provides a means whereby an administrative body may promulgate and file an administrative regulation following the enactment of a statute authorizing or directing its promulgation by the General Assembly and its approval by the Governor or its becoming law without signature but before the effective date subject to the following:

(1) The administrative regulation may be filed any time after signature by the Governor or upon the act becoming law without the Governor's signature but prior to the act's effective date.

(2) The [~~proposed~~] administrative regulation may be reviewed, hearings held, and all other steps taken with regard thereto, except for adoption, prior to the effective date of the statute which authorized or directed its issuance.

(3) All dates and other procedures which apply to an ordinary administrative regulation shall apply to an administrative regulation in contemplation of a statute.

(4) An administrative regulation in contemplation of a statute shall in all other respects be considered as ***an*** [~~a proposed~~] ordinary administrative regulation.

Section 9. KRS 13A.220 is amended to read as follows:

All [~~proposed~~] administrative regulations[~~, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations~~] shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file the original and five (5) copies of ***an*** [~~a proposed~~] administrative regulation with the regulations compiler. The original and each copy of each administrative regulation shall

be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(2) ***An*** [~~A proposed~~] amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (3) of this section.

(3) The format of ***an*** [~~a proposed~~] administrative regulation shall be as follows:

(a) ***An*** [~~A proposed~~] administrative regulation shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches and shall be double-spaced. ***Pages of an administrative regulation and accompanying statements shall be numbered sequentially.*** Copies of the [~~proposed~~] administrative regulation may be mechanically reproduced;

(b) A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the [~~proposed~~] administrative regulation;

(c) The cabinet, department, and division of the administrative body shall be listed on separate single spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed by "(Proposed Amendment)" or "(Amended After Hearing)," whichever is applicable. If ***an*** [~~a proposed~~] administrative regulation is new, the notation shall read "(Proposed Administrative Regulation)";

(d) The notation shall be followed by the number and title of the [~~proposed~~] administrative regulation. The line on which the number and title appear shall begin two (2) lines below the notation. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new [~~proposed~~] administrative regulation;

(e) Two (2) lines following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list ***all*** [~~any~~] statutes and other enactments, including appropriation acts or executive orders, to which the [~~proposed~~] administrative regulation relates or which shall be affected by the [~~proposed~~] administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list ***all*** [~~the~~] specific statutes and other enactments, where applicable, authorizing the promulgation of the [~~proposed~~] administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY AND FUNCTION:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation and a summary of the functions intended to be implemented by the [~~proposed~~] administrative regulation.

(4) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(5) After the complete text of ***an*** [~~a proposed~~] administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of ***the*** [~~such~~] official or head; and the date on which ***th***e [~~such~~] review or approval occurred.

(b) The authorizing signature of the administrative body promulgating the [~~proposed~~] administrative regulation, and the date on which the administrative body approved the promulgation;

(c) The signature of an attorney certifying that he has examined and approved the [~~proposed~~] administrative regulation as to form;

(d) Information relating to public hearings as required by KRS 13A.160 and 13A.270.

(e) The name*, **position, address, and telephone number*** of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

Section 10. KRS 13A.222 is amended to read as follows:

(1) In a new [~~proposed~~] administrative regulation, there shall be no underlining or bracketing.

(2) In ***an amendment*** [~~all proposed amendments~~] to ***an*** administrative ***regulation*** [~~regulations~~], the [~~proposed~~] new words shall precede the [~~proposed~~] deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all [~~proposed~~] new words; and

(b) Place the [~~proposed~~] deleted words in brackets and strike through these words.

(3) (a) ***An*** [~~No~~] administrative regulation shall ***not*** be amended by reference to a section only. ***An*** [~~A proposed~~] amendment shall contain the full text of the administrative regulation being amended.

(b) A section of an administrative regulation shall not be reserved for future use.

(4) In drafting administrative regulations, the administrative body shall comply with the following:

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;

(b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in ***an*** [~~a proposed~~] administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear;

(e) If definitions are used, they shall be placed*, **in alphabetical order,*** in the first section of ***an*** [~~a proposed~~] administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." ***If definitions are used in the first section of an administrative regulation, the definitions shall govern only the terms in that administrative regulation.*** If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of ***the*** [~~a~~] specific chapter of the Kentucky Administrative Regulations Service ***to which the definitions apply***. The title of the administrative regulation shall also contain the number of ***that*** [~~the~~] chapter of the Kentucky administrative regulations service [~~to which the definitions apply~~]. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;

2. To avoid repetition of a phrase; or

3. To limit or extend the provisions of ***an*** [~~a proposed~~] administrative regulation;

(f) If a word has the same meaning as a phrase, the word shall be used;

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;

(i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where;"

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	—
At the time	when
And the same hereby is	is
Either directly or indirectly	—
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall
It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if

(l) ***1.*** Unless the authority for an administrative regulation is an appropriation act that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of ***an*** [~~a proposed~~] administrative regulation shall be cited.

2. If an act has not been codified ***in the Kentucky Revised Statutes*** at the time ***an*** [~~a proposed~~] administrative regulation is promulgated, [~~or if the authority is an appropriation act,~~] the citation shall be as follows:

a. For acts of regular sessions, 19xx Ky. Acts, ch. xxx, sec. xxx, e.g., 1990 Ky. Acts, ch. 476, sec. 1; and

b. For acts of extraordinary sessions, xxxx (xxx Extra. Sess.) Ky. Acts, ch. xxx, sec. xxx, e.g., 1991 (Extra. Sess.) Ky. Acts, ch. 5, sec. 101. [~~"Acts (year), Chapter (chapter number), Section (section number)."~~]

3. When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation ***of the Kentucky Revised Statutes*** in writing. Upon receipt of ***the*** [~~such~~] written notice, the regulations compiler shall correct the citation.

4. a. If the statutory authority is a branch appropriation act, the citation shall be as follows: 19xx KY. Acts, ch. xxx, Part x,x.,x.,x., e.q., 1990 Ky. Acts, ch. 514, Part I,A.,1.,a.

b. If appropriate, the citation of a branch appropriation act shall include a citation to the appropriate section or other part of the budget memorandum.

c. If the statutory authority is an appropriation act other than a branch appropriation act, it shall be cited as provided in subsection (4)(l)2. of this section.

5. If the authority is an executive order, the citation shall be as follows: EO (year executive order issued)-(number of executive order), e.g., EO 91-321.

(m) 1. If the statutory authority is a federal law, the citation from the following materials, as appropriate, shall be as shown in the examples given:

a. United States Code, e.g., 42 U.S.C. Section 4332 (1988), if the statute has been codified; or

b. Public laws and official session laws, e.g., Pub. L. No. 91-190, Section 102, 83 Stat. 852, 853 (1970), if the statute has not been codified.

(n) 1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: xx C.F.R. xxx.x, e.g., 40 C.F.R. 1.1.

2. a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: (volume of Federal Register) Fed. Reg. (page of Federal Register) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified), e.g., 55 Fed. Reg. 36,6121 (effective December 31, 1991), (to be codified at 26 C.F.R. 52).

b. When the federal regulation is codified, the citation shall be amended to read as provided by Subsection (4)(n)1. of this section.

3. a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which the federal regulation is codified, the citation shall be to the Federal Register as follows: (C.F.R. cite of federal regulation that has been amended), (volume of Federal Register) Fed. Reg. (page of Federal Register) (effective date of the amendment), e.g., 26 C.F.R. 1.602, 57 Fed. Reg. 6,291 (effective December 31, 1991).

b. When the amendment is codified in the appropriate volume of the Code of Federal Regulations, the citation shall be amended to read as provided by subsection (4)(n)1. of this section.

(o) Citations of items in the RELATES TO section of an administrative regulation shall comply with subsections (4)(l),(m), and (n) of this section.

Section 11. KRS 13A.2251 is amended to read as follows:

(1) An administrative regulation incorporating material by reference shall include:

(a) The ***title placed between quotation marks, followed by the edition*** [~~effective~~] date ***in parenthesis,*** of the material incorporated by reference;

(b) Information on how the material may be obtained; and

(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each.

The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.

(2) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:

(a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;

(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and

(c) The total number of pages incorporated by reference.

(3) ***(a)*** One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed.

(b) Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type***, on the front binder cover and on the first page of the material incorporated by reference,*** the number of ***the*** [~~a proposed~~] administrative regulation to which material incorporated by reference pertains***,*** [~~and~~] the date on which it is filed***; and the citation of each item that is:***

1. Incorporated by reference; or

2. Specified or cross referenced in the material incorporated by reference; or

3. Authority for the material incorporated by reference.

(c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder. The numbers of the administrative regulations in which the material is incorporated by reference shall be stamped or typed on the:

1. Front binder cover; and

2. First page of the material incorporated by reference [~~on the front binder cover and on the first page of the material incorporated by reference~~].

Section 12. KRS 13A.2255 is amended to read as follows:

When ***an*** [~~a proposed~~] administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

(1) An entire new document in which the amendments have been made but are not reflected in the manner specified in KRS 13A.222;

(2) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the [~~proposed~~] administrative regulation; and

(3) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in KRS 13A.222.

Section 13. KRS 13A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of ***an*** [~~a proposed~~] administrative regulation ***filed with the Legislature Research Commission***:

(a) Regulatory impact analysis;

(b) Tiering statement;

(c) Local mandate impact statement, if the administrative regulation relates to any aspect of local government or any service provided thereby;

(d) Federal mandate comparison, if applicable; and

(e) The summaries provided for in KRS 13A.2261, 13A.2264, and 13A.2267, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler.

Section 14. KRS 13A.240 is amended to read as follows:

(1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) [~~duplicate~~] copies of a regulatory impact analysis for every [~~proposed~~] administrative regulation. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) The type and number of individuals, businesses, organizations, and state and local governments affected by the administrative regulation; and

(b) The direct and indirect costs or savings, as well as the compliance, reporting, and paperwork requirements of the administrative regulation on those affected for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation, including the effect on competition being noted; and

(c) The direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the administrative regulation for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation being noted; and

(d) An assessment of any anticipated effect on state and local revenues; and

(e) An assessment of alternative methods for accomplishing the purpose of the administrative regulation and the reasons why they were rejected in favor of the [~~proposed~~] administrative regulation; and

(f) A written statement identifying any statute, rule, regulation, or governmental policy which the [~~proposed~~] administrative regulation may be in conflict with overlap or duplicate; and a written statement for the necessity to promulgate the administrative regulation if conflict, overlapping, or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the [~~proposed~~] administrative regulation with any statute, rule, regulation, or governmental policy with which it has been found to be in conflict.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies[~~,~~] and prepare a written analysis thereof and of the [~~proposed~~] administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which subsections (1)(a) through (1)(f) are based and an explanation of how the data was gathered.

Section 15. KRS 13A.250 is amended to read as follows:

(1) Each administrative body which promulgates ***an*** [~~a proposed~~] administrative regulation[~~, proposed amendment to an administrative regulation, repeal of an administrative regulation, or emergency administrative regulation~~] which relates to any aspect of local government or any service provided thereby shall prepare and submit with the ***administrative*** regulation a fiscal note.

(2) The form of the fiscal note shall be determined by the Commission by administrative regulation.

(3) Any administrative body may request the advice and assistance of the Commission in the preparation of the fiscal note.

Section 16. KRS 13A.270 is amended to read as follows:

(1) ***(a)*** [~~Not less than twenty (20) nor more than thirty (30) days~~] Following publication in the Administrative Register of the text of ***an*** [~~a proposed~~] administrative regulation, the administrative body

shall, unless authorized to cancel the hearing pursuant to subsection (4) of this section, hold a hearing, open to the public, on the [~~proposed~~] administrative regulation.

(b) The public hearing shall not be held before the twenty-first day, nor later than the thirtieth day, of the month in which the administrative regulation is published in the Administrative Register.

(c) If the month in which the administrative regulation is published in the Administrative Register has less than thirty (30) days, the public hearing shall be held no later than the last day of the month in which the administrative regulation was published in the Administrative Register.

(2) Each [~~proposed~~] administrative regulation shall state*:*

(a) The place, time, and date of the scheduled public hearing*;* [~~and~~]

(b) The manner in which interested persons ***shall*** [~~may~~] submit their*:*

1. Notification of attending the public hearing***; and***

2. Written comments;

(c) That notification of attending the public hearing shall be transmitted to the administrative body no later than five (5) work days prior to the date of the public hearing; and

(d) The name, position, address, and telephone number of the person to whom notification and written comments shall be transmitted [~~pursuant to the provisions of this section~~].

(3) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) ***work*** days before the scheduled date of the hearing.

(4) The administrative body shall immediately notify the regulations compiler by telephone and by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) days before the scheduled hearing, and it chooses to cancel the public hearing; or

(b) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) days before the scheduled hearing; it has cancelled the public hearing; and it has received written or oral statements that shall be considered.

(5) Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held.

(6) Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not ***he*** [~~such person~~] has given the notice contemplated by subsection (3) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(7) Nothing in this section shall be construed as requiring a separate hearing on each [~~proposed~~] administrative regulation[~~, proposed amendment to an administrative regulation or proposed repeal of an administrative regulation~~]. Administrative regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 17. KRS 13A.280 is amended to read as follows:

(1) Following the scheduled hearing date, the administrative body shall give consideration to all written and oral comments received ***regarding the administrative regulation:***

1. Prior to or[~~, whether~~] at the hearing*;* or

2. If a hearing is canceled, on or before 4:30 p.m. of the day the hearing was scheduled [~~otherwise, regarding the proposed administrative regulation, proposed amendment to an administrative regulation, or repeal of an administrative regulation~~].

(2) The administrative body shall then file with the commission on or before 12 noon, eastern time, on the fifteenth day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) If the [~~proposed~~] administrative regulation[~~, proposed amendment of an administrative regulation, or repeal of an administrative regulation~~] is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the following to the regulations compiler by noon on the fifteenth day following the hearing:

(a) The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise;

(b) The original and five (5) copies of the statement of consideration as required by subsection (2) of this section***, attached to the back of the original and each copy of an administrative regulation***; and

(c) The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8.5) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the statement;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered three (3) inches from the top of the first page. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable;

(d) If a hearing has been held the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those attending the hearing and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) If a hearing has not been held, but written or oral comments have been received:

1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and

2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;

(f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment" and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing;

(h) If the promulgating administrative body amends the [~~proposed~~] administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(5) (a) If the [~~proposed~~] administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.

(b) If the statement of consideration is not forwarded to the regulations compiler at least five (5) ***work*** [~~working~~] days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(6) If the administrative regulation is amended pursuant to subsection (3) of this section the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 18. KRS 13A.290 is amended to read as follows:

(1) Within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within forty-five (45) days of the receipt of a statement of consideration the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the [~~proposed~~] administrative regulation[~~, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency administrative regulation~~] under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly scheduled meeting of the Commission the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. [~~One (1) copy thereof shall be sent to the promulgating agency.~~] The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter.

(7) Within thirty (30) days of such assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8) An administrative body shall comply with subsection (4) of this section.

(9) The subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee as provided in KRS 13A.030(2) and (3).

(10) Following the meeting and before the next regularly scheduled meeting of the Commission the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. [~~One (1) copy thereof shall be sent to the promulgating agency.~~] The subcommittee's findings shall be published in the Administrative Register.

Section 19. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated ***an*** [~~a proposed~~] administrative regulation[~~, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation~~] may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by such subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the proposal.

(2) The deferring of ***an*** [~~a proposed~~] administrative regulation[~~, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation~~] shall have the same effect as an action under KRS 13A.310.

(3) A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.

(4) Except as provided in subsections (1) to (3) of this section, neither the promulgating administrative body, the commission, nor a subcommittee shall defer any action which is required to be taken pursuant to this chapter.

(5) An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 20. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) ***(a) An administrative regulation shall be repealed by the promulgation of an administrative regulation that:***

1. Is titled "Repeal of (number of administrative regulation to be repealed)";

2. Contains one (1) section stating that the administrative regulation is repealed; and

3. States the reasons for repeal in the "NECESSITY AND FUNCTION" section.

(b) After an administrative regulation that repeals an administrative regulation is effective, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

(c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated under the provisions of paragraph (a) of this subsection. [~~A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of~~]

(4) An administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption. If an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(5)[~~(4)~~] Once [~~a proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of~~] an administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

[~~(5) An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. Such subcommittee shall consider the matter as if the proposal had met all other requirements of filing. Repromulgation shall not be required in such cases.~~]

Section 21. KRS 13A.315 is amended to read as follows:

(1) An administrative regulation shall be withdrawn and shall not be reviewed by a legislative subcommittee if:

(a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;

(b) An item is not filed on or before a deadline specified by KRS Chapter 13A; or

(c) The administrative body has failed to comply with the provisions of KRS Chapter 13A governing the filing of administrative regulations, public hearings and the statement of consideration.

(2) [~~A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of~~] An administrative regulation which has not complied with all the provisions of this chapter [~~and any regulations promulgated under this chapter~~] shall be considered procedurally defective and void.

Section 22. KRS 13A.320 is amended to read as follows:

(1) (a) An administrative body may amend an administrative regulation at a subcommittee meeting with the consent of the subcommittee. A subcommittee may amend an administrative regulation at a subcommittee meeting with the consent of the administrative body.

(b) An administrative regulation shall not be amended at a public meeting of a subcommittee unless the amendment concerns an issue that was:

1. Related to the [~~proposed~~] administrative regulation or the [~~proposed~~] amendment to an existing administrative regulation filed with the Legislative Research Commission; and

2. Considered at the public hearing; [~~or~~]

3. ***Raised pursuant to a written comment received by the administrative body pursuant to subsection (1) of Section 17 of this Act; or***

4. Raised by the subcommittee.

(c) Nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended.

(d) An administrative regulation amended at a subcommittee meeting [~~Subsequent to its adoption it~~] shall be published in the Administrative Register***, unless all amendments made at a meeting of a subcommittee relate only to the format and drafting requirements of subsections (3), (4), and (5)(e) of Section 9 and subsection (4) of Section 10 of this Act. The findings and minutes of the subcommittee shall state that the administrative regulation was amended to comply with the drafting requirements of subsections (3), (4), and (5)(e) of Section 9 and subsection (4) of Section 10 of this Act.***

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee the following requirements shall be met:

(a) Amendments proposed by the administrative body to resolve issues raised by a subcommittee prior to its meeting shall be approved by the head of the administrative body;

(b) Amendments initiated by the administrative body shall be contained in a letter to the subcommittee. ***The letter***[~~,~~] shall***:***

1. Identify the administrative body***;***[~~, and shall~~]

2. State the number ***and title*** of the administrative regulation~~;~~ [~~and~~]

3. Be dated; and [~~the date. Such amendments shall~~]

4. Be filed with the regulations compiler at least five (5) ***work*** [~~working~~] days prior to the meeting of the subcommittee;

(c) The number of the ***page,*** section, [~~and~~] subsection, ***paragraph, and line*** to which the amendment applies shall precede the amendment and shall be underlined ***or otherwise emphasized***; and

(d) ***Amendments shall begin on the line following the items specified in paragraph (c) of this subsection, and shall comply with the format established in paragraph (e) of this subsection.***

(e) 1. If a word or phrase is to be deleted, the amendment shall identify the word or phrase to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase with which it is ***to be*** replaced.

2. If a word or phrase, underlined or not underlined, is to be deleted, the amendment shall state that it is to be bracketed and stricken through.

3. If new language is to be added, the amendment shall state that it is to be inserted, and the new language shall be underlined in the amendment.

4. If amended language consists of no more than four (4) words, it shall be placed between quotation marks. If amended language consists of more than four (4) words, it shall be indented and not placed between quotation marks.

5. If a section, subsection, paragraph, subparagraph, clause, or subclause is to be deleted, the amendment shall state that it is to be deleted in its entirety, whether or not it contains underlined or bracketed language. [~~Example: Section 5, subsection (3): The word "qualify" before the phrase "of the internship program" is deleted. The word "quality" is inserted in lieu of the word "qualify."~~]

Section 23. KRS 13A.330 is amended to read as follows:

(1) [~~A proposed administrative regulation, proposed amendment of an existing administrative regulation, or proposed repeal of~~] An administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day a subcommittee meets to consider the ***administrative regulation*** [~~proposal~~] pursuant to KRS 13A.290(7).

(2) ***An administrative regulation shall be considered as adopted and shall become effective as of the adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to subsection 7 of Section 18 of this Act if:***

(a) A quorum is present; and

(b) The subcommittee fails to:

1. Consider it; or

2. Agree to defer it.

(3) If [~~Where~~] a subcommittee fails to meet within thirty (30) days of assignment of ***an administrative*** [~~a proposed~~] regulation as provided in KRS 13A.290(7), ***or does not place the administrative regulation on the agenda of any meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission,*** the ***administrative*** [~~proposed~~] regulation[~~, amendment, or repeal thereof~~] shall become effective as of the expiration of such thirty (30) day period.

Section 24. KRS 13A.333 is amended to read as follows:

(1) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.

(2) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during the interim between regular sessions of the General Assembly, it shall expire on adjournment of the next succeeding regular session of the General Assembly.

(3) The provisions of this section shall apply to all administrative regulations found deficient, including those found deficient during the 1990 Regular Session of the General Assembly.

(4) If deferral of an administrative regulation at the request of an administrative body would result in its adoption after adjournment of a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.

(5) (a) An administrative body may prepare legislation proposing the enactment of the provisions of an administrative regulation found deficient by a subcommittee.

(b) Prior to the convening of the General Assembly in regular session, it shall notify the regulations compiler in writing of its intent to prepare legislation.

(c) It shall submit such legislation to the Legislative Research Commission.

(d) The proposed legislation may be introduced by any member of the General Assembly.

(6) ***(a)*** An administrative body shall be prohibited from promulgating an administrative regulation that is identical to or substantially the same as a regulation which has expired pursuant to subsections (1), (2), and (4) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the regulation.

(b) An administrative regulation shall be determined to be identical to or substantially the same as an administrative regulation that expired if it is deficient in the same manner as the administrative regulation that expired because it was found deficient.

(c) An administrative regulation shall not be determined to be identical to or substantially the same as an administrative regulation that expired if it:

1. Contains the identical or substantially similar language or provisions that gave rise to the finding of deficiency of the expired administrative regulation; and

2. The identical or substantially similar language or provisions that gave rise to the finding of deficiency of the expired administrative regulation is required by state law or by federal law or regulation.

Section 25. KRS 13A.335 is amended to read as follows:

(1) An administrative regulation found deficient by a subcommittee shall not expire if:

(a) A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;

(b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects such deficiency; and

(c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.

(2) An administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not expire if:

(a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the Commission;

(b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and

(c) The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not expire.

(3) An administrative regulation found deficient by a subcommittee shall not expire if the subcommittee:

(a) Reconsiders the administrative regulation and its finding of deficiency; and

(b) Approves a motion that the administrative regulation is not deficient.

(4) (a) If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation shall expire on adjournment of the next regular session of the General Assembly." This notice shall be the last section of the administrative regulation.

(b) If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph (a) of this subsection.

(c) If an administrative regulation that has been found deficient by a subcommittee has been amended and determined not to be deficient under the provisions of this section, the regulations compiler shall delete the notice required by paragraph (a) of this subsection.

SECTION 26. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) (a) If authority over a subject matter is transferred to another administrative body by statute, or by executive order during the interim between regular sessions of the General Assembly, the administrative body to which authority has been transferred shall:

1. Repeal administrative regulations promulgated by the administrative body that previously had authority over the subject matter; and

2. Promulgate administrative regulations governing the subject matter.

(b) Administrative regulations repealed under the provisions of this subsection shall be repealed as provided by subsection (3) of Section 20 of this Act.

Section 27. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) ***"Administrative regulation" means that term as defined in KRS 13A.010;***

(3) "Animal" includes every warm-blooded living creature except a human being;

(4)[~~(3)~~] "Attorney" means attorney-at-law;

(5)[~~(4)~~] "Bequeath" and "devise" mean the same thing;

(6)[~~(5)~~] "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(7)[~~(6)~~] "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(8)[~~(7)~~] "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(9)[~~(8)~~] "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(10)[~~(9)~~] "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(11)[~~(10)~~] "Directors," when applied to corporations, includes managers or trustees;

(12)[~~(11)~~] "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(13)[~~(12)~~] "Domestic animal" means any animal converted to domestic habitat;

(14)[~~(13)~~] "Federal" refers to the United States;

(15)[~~(14)~~] "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(16)[~~(15)~~] "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(17)[~~(16)~~] "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(18)[~~(17)~~] "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(19)[~~(18)~~] "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(20)[~~(19)~~] "Legatee" and "devisee" convey the same idea;

(21)[~~(20)~~] "May" is permissive;

(22)[~~(21)~~] "Month" means calendar month;

(23)[~~(22)~~] "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(24)[~~(23)~~] "Owner" when applied to any animal, means any person having a property interest in such animal;

(25)[~~(24)~~] "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(26)[~~(25)~~] "Penitentiary" includes all of the state penal institutions except the houses of reform;

(27)[~~(26)~~] "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, and joint stock companies;

(28)[~~(27)~~] "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(29)[~~(28)~~] "Regular election" means the election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected;

(30)[~~(29)~~] "Shall" is mandatory;

(31)[~~(30)~~] "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(32)[~~(31)~~] "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the treasury and whether or not the money is still in the treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(33)[~~(32)~~] "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(34)[~~(33)~~] "United States" includes territories, outlying possessions, and the District of Columbia;

(35)[~~(34)~~] "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county, or district, or otherwise;

(36)[~~(35)~~] "Violate" includes failure to comply with;

(37)[~~(36)~~] "Will" includes codicils; "last will" means last will and testament;

(38)[~~(37)~~] "Year" means calendar year; and

(39)[~~(38)~~] "City" includes town.

Section 28. KRS 446.010, is amended by 1990 Kentucky Acts, Chapter 138, Section 3, effective January 3, 1994, is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) ***"Administrative regulation" means that term as defined in KRS 13A.010;***

(3) "Animal" includes every warm-blooded living creature except a human being;

(4)[~~(3)~~] "Attorney" means attorney-at-law;

(5)[~~(4)~~] "Bequeath" and "devise" mean the same thing;

(6)[~~(5)~~] "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(7)[~~(6)~~] "Cattle" includes horse, mule, ass, cow, ox, sheep, hog, or goat of any age or sex;

(8)[~~(7)~~] "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company, or association;

(9)[~~(8)~~] "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company, or association;

(10)[~~(9)~~] "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering, or death is caused or permitted;

(11)[~~(10)~~] "Directors," when applied to corporations, includes managers or trustees;

(12)[~~(11)~~] "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(13)[~~(12)~~] "Domestic animal" means any animal converted to domestic habitat;

(14)[~~(13)~~] "Federal" refers to the United States;

(15)[~~(14)~~] "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(16)[~~(15)~~] "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(17)[~~(16)~~] "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(18)[~~(17)~~] "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(19)[~~(18)~~] "Land" or "real estate" includes lands, tenements, and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(20)[~~(19)~~] "Legatee" and "devisee" convey the same idea;

(21)[~~(20)~~] "May" is permissive;

(22)[~~(21)~~] "Month" means calendar month;

(23)[~~(22)~~] "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(24)[~~(23)~~] "Owner" when applied to any animal, means any person having a property interest in such animal;

(25)[~~(24)~~] "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan and urban-county government correctional officers, marshals, policemen, and other persons with similar authority to make arrests;

(26)[~~(25)~~] "Penitentiary" includes all of the state penal institutions except the houses of reform;

(27)[~~(26)~~] "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships, and joint stock companies;

(28)[~~(27)~~] "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(29)[~~(28)~~] "Regular election" means the election in even-numbered years at which members of Congress are elected and the election in odd-numbered years at which state officers are elected;

(30)[~~(29)~~] "Shall" is mandatory;

(31)[~~(30)~~] "State" when applied to a part of the United States, includes territories, outlying possessions, and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(32)[~~(31)~~] "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization whether or not the money has ever been paid into the treasury and whether or not the money is still in the treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the Legislative Research Commission pursuant to KRS 42.600, 42.605, and 42.615;

(33)[~~(32)~~] "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(34)[~~(33)~~] "United States" includes territories, outlying possessions, and the District of Columbia;

(35)[~~(34)~~] "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county, or district, or otherwise;

(36)[~~(35)~~] "Violate" includes failure to comply with;

(37)[~~(36)~~] "Will" includes codicils; "last will" means last will and testament;

(38)[~~(37)~~] "Year" means calendar year; and

(39)[~~(38)~~] "City" includes town.

Section 29. The following KRS sections are repealed:

13A.245 Agencies to prepare a federal mandate analysis comparing proposed state regulatory standards to federal standards.

13A.346 Quadrennial review of administrative regulations by LRC subcommittee — Schedule.

13A.347 Assignment by LRC to subcommittee — Public meeting — Reports required — Expiration of administrative regulations — Enactment into statute — Prohibition concerning promulgation.

HCR 158, A CONCURRENT RESOLUTION directing the Legislative Research Commission to conduct a study on reports mandated by statute.

WHEREAS, there are more than 250 legislatively mandated reports among the three branches of state government; and

WHEREAS, many legislatively mandated reports have become redundant, mirroring basic information currently required in agency annual reports as stipulated by KRS 12.110; and

WHEREAS, no data exist that might reflect accurately any duplicative support and administrative costs to be saved with a more streamlined governmental reporting system; and

WHEREAS, there is no statutory mechanism to purge legislatively required reports that have become redundant or out of date;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission shall conduct a study relating to reports mandated by statute.

Section 2. That this study shall include but not be limited to:

(1) Determining which reports may no longer be required;

(2) Determining the costs associated with mandated reports and if these costs can be reduced;

(3) Considering the feasibility of combining special reports into the annual report;

(4) Considering the applicability of sunset legislation requiring termination of a particular reporting requirement on a predetermined date; and

(5) Determining which legislatively mandated reports are not being compiled and for what reasons.

Section 3. That this report shall be submitted to the Legislative Research Commission no later than June 1, 1993.

Section 4. That staff services to be utilized in completing this study are estimated to cost ten thousand ($10,000) dollars. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 219, AN ACT relating to corporations and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 271B.14-220 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 271B.14-210*, **or revoked under the provisions of KRS 271A.615, which was repealed by 1988 Acts, Chapter 23, Section 248,*** may apply to the Secretary of State for reinstatement ***at any time*** [~~within two (2) years~~] after the effective date of dissolution ***or revocation***. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution ***or revocation***;

(b) State that the ground or grounds for dissolution ***or revocation*** either did not exist or have been eliminated;

(c) State that the corporation's name satisfies the requirements of KRS 271B.4-010; [~~and~~]

(d) Contain a certificate from the Revenue Cabinet reciting that all taxes owed by the corporation have been paid***; and***

(e) Be accompanied by the reinstatement penalty and the current fee for filing each delinquent annual report provided for in KRS 271B.1-220.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution ***or revocation*** and prepare a certificate of ***existence*** [~~reinstatement~~] that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing ***the*** [~~such~~] notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution ***or revocation*** and the corporation shall resume carrying on its business as if the administrative dissolution ***or revocation*** had never occurred.

(4) Notwithstanding any other provision to the contrary, any corporation which was administratively dissolved or revoked and has taken the action necessary to wind up and liquidate its business and affairs under KRS 271B.14-050, and notify claimants under KRS 271B.14-060 and 271B.14-070, shall be prohibited from reinstatement.

Section 2. KRS 271B.14-230 is amended to read as follows:

(1) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution ***or revocation***, he shall serve the corporation with a written notice that explains the reason or reasons for denial by mailing ***the*** [~~such~~] notice by first class mail to the corporation at its registered office.

(2) The corporation may appeal the denial of reinstatement to the Circuit Court of the county where the corporation's principal office (or, if none in this state, its registered office) is or was last located within thirty (30) days after service of the notice of denial is perfected. The corporation may appeal by petitioning the court to set aside the dissolution ***or revocation*** and attaching to the petition copies of the Secretary of State's certificate of dissolution ***or revocation***, the corporation's application for reinstatement, and the Secretary of State's notice of denial.

(3) The court may summarily order the Secretary of State to reinstate the dissolved ***or revoked*** corporation or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 3. A NEW SECTION OF KRS CHAPTER 271B IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares it to be the public policy of the Commonwealth of Kentucky that each corporation which was refused reinstatement either orally or in writing and subsequently reincorporated as a second corporation may reinstate the first corporation and merge the second corporation into the first corporation. The first corporation shall then be treated as if it had continuous and uninterrupted existence and that the administrative dissolution or revocation had never occurred.

Section 4. KRS 273.3182 is amended to read as follows:

(1) A corporation administratively dissolved under KRS 273.318 ***or revoked under the provisions of KRS 273.367, which was repealed by 1988 Acts, Chapter 23, Section 248,*** may apply to the Secretary of State for reinstatement ***at any time*** [~~within two (2) years~~] after the effective date of dissolution ***or revocation***. The application shall:

(a) Recite the name of the corporation and the effective date of its administrative dissolution ***or revocation***;

(b) State that the ground or grounds for dissolution ***or revocation*** either did not exist or have been eliminated; [~~and~~]

(c) State that the corporation's name satisfies the requirements of KRS 273.177***;***

(d) Contain a certificate from the Revenue Cabinet reciting that all taxes owed by the corporation have been paid; and

(e) Be accompanied by the fee for filing a statement or report provided for in KRS 273.368(1)(k) and the current fee for filing each delinquent annual report provided for in KRS 273.368.

(2) If the Secretary of State determines that the application contains the information required by subsection (1) of this section and that the information is correct, he shall cancel the certificate of dissolution ***or revocation*** and prepare a certificate of ***existence*** [~~reinstatement~~] that recites his determination and the effective date of reinstatement, file the original of the certificate, and serve a copy on the corporation by mailing ***the*** [~~such~~] notice by first class mail to the corporation at its registered office.

(3) When the reinstatement is effective, it shall relate back to and take effect as of the effective date of the administrative dissolution ***or revocation*** and the corporation shall resume carrying on its business as if the administrative dissolution ***or revocation*** had never occurred.

Section 5. KRS 273.3183 is amended to read as follows:

(1) If the Secretary of State denies a corporation's application for reinstatement following administrative dissolution ***or revocation***, he shall serve the corporation with a written notice that explains the reason or reasons for denial by mailing ***the*** [~~such~~] notice by first class mail to the corporation at its registered office.

(2) The corporation may appeal the denial of reinstatement to the Circuit Court of the county where the corporation's principal office, or, if none in this state, its registered office, is or was last located within thirty (30) days after service of the notice of denial is perfected. The corporation shall appeal by petitioning the court to set aside the dissolution ***or revocation*** and attaching to the petition copies of the Secretary of State's certificate of dissolution ***or revocation***, the corporation's application for reinstatement, and the Secretary of State's notice of denial.

(3) The court may summarily order the Secretary of State to reinstate the dissolved ***or revoked*** corporation or may take other action the court considers appropriate.

(4) The court's final decision may be appealed as in other civil proceedings.

SECTION 6. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares it to be the public policy of the Commonwealth of Kentucky that each corporation which was refused reinstatement either orally or in writing and subsequently reincorporated as a second corporation may reinstate the first corporation and merge the second corporation into the first corporation. The first corporation shall then be treated as if it had continuous and uninterrupted existence and that the administrative dissolution or revocation had never occurred.

Section 7. Whereas former domestic corporations that have been administratively dissolved or revoked for a period of more than two (2) years no longer qualify to reinstate their corporate existence under the current statutes, and whereas because of the current statutes these former domestic corporations may no longer enjoy limited liability or other corporate protections, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Calendar

HB 392, HB 667, HB 701, HB 761, HB 792, HB 882, SB 28, SB 54, SB 122, HB 546, HB 558, HB 602, HB 603, HB 636, HB 651, HB 697, HB 710, HB 744, HB 756, SB 6, SB 47, SB 172, HB 317, HB 337, HB 388, HB 625, HB 650, HB 865, HCR 129, HB 679, HB 817, HB 844, HCR 154, HB 260, HB 266, HB 284, HB 370, HB 522, HB 596, HB 677, HB 750, HB 808, HB 848, HB 871, HB 365, HB 707, HCR 149, HB 812, HB 821, HB 873, HCR 170, HB 544, HB 732 and **HCR 166** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 2 to **HB 181**, by Representative Barrows:

Amend printed copy of **HB 181** on page 1, line 5 before the word "***full***" insert the words "***up to***";

On page 1, line 5 after the word "***tuition***" delete the word "***credit***" and insert "***award***" in lieu thereof; and

On page 2, line 20 after the word "***shall***" delete remaining new language and insert in lieu thereof "***repay to the Department of Military Affairs the***;

On page 2, line 21 delete the word "***credit***" and insert "***award***" in lieu thereof; and

On page 2, line 22 after the word "***section***" add a "."; and

On page 2, line 22 delete the word "***and***";

On page 2, line 22 delete the word "***the***" and insert in lieu thereof "***The***";

On page 2, line 23 delete "***assist the institution in***" and insert "***be responsible for***" in lieu thereof;

On page 3, line 17 after the word "***shall***" delete "***, in***";

On page 3, delete line 18 in its entirety;

On page 3, line 19 delete "***Workforce Development Cabinet,***"

On page 3, line 19 delete the word "***any***";

On page 3, line 21 before the underlined period add the following:

"***, including a method to distribute reasonable award amounts of less than full tuition in order to serve as many eligible persons as reasonable, based on the funds appropriated for the biennium.***"

On page 3, delete lines 24-26 in their entirety;

On page 4, delete lines 1-6 in their entirety.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that the following Consent Bills have been posted for passage in the Regular Orders of the Day for March 16, 1992: **HB 133, HB 220.**

The Committee on Rules reported that **HB 185, HB 223, HB 224, HB 226, HB 631, HB 769, HB 167, HB 174, HB 192, HB 698, HB 738, HB 365, HB 370, HB 392, HB 546, HB 636, HB 651, HB 667, HB 677, HB 697, HB 707, HB 710, HB 744, HB 756, HB 761, HB 817, HB 821, HB 844, HB 865, HCR 129, HCR 149, HCR 154, HCR 166, HCR 170** and **HB 230** have been posted for passage in the Orders of the Day for March 16, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 284**

Banking and Insurance: **HB 792**

Floor Amendments (Continued)

Floor Amendment No. 3 to **HB 181**, by Representative Ark:

Amend printed copy of **HB 181** on page 3, line 22 after "Section 2." by inserting the following:

"A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) No individual shall be eligible to receive educational assistance of any type available from any state university or college or other agency or instrumentality of the Commonwealth or educational financial assistance funded or administered by the Commonwealth, its agencies, or instrumentalities for attendance at private postsecondary institutions, unless the individual provides to the educational institution a statement of compliance with selective service registration requirements.

(2) The statement required by subsection (1) of this section shall conform in form and substance to the statement required under regulations promulgated by the U.S. Secretary of Education pursuant to Title 50 United States Code Appendix section 462(f).

Section 3."; and

On page 3, line 24 change "Section 3." to "Section 4.".

Floor Amendment No. 2 to the Committee Substitute to **HB 418**, by Representative Strong:

Amend printed copy of **HB 418/HCS** on page 3, after line 11, by adding the following:

Section 2. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

(1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;

(2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

(3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;

(4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45.360;

(5) Issue revenue bonds, in accordance with KRS 151.730, payable from fees collected from all facilities using water from the ***main stem of the*** Kentucky River [~~or its tributaries~~], except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;

(6) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;

(7) Issue administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;

(8) Exercise all other powers necessary to perform its public purpose;

(9) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority shall develop a unified long-range water resource plan for the basin. The authority shall conduct a public hearing on the plan, and submit its final unified plan for the basin to the Natural Resources and Environmental Protection Cabinet. The cabinet shall act upon the plan within six (6) months and shall approve the plan, unless it objects for good reason shown. A drought response plan for the basin shall be developed by the authority, and this plan shall be implemented for the basin upon the direction of the authority or the Governor;

(10) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations shall be issued implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;

(11) Develop recreational areas within the basin. These recreational areas shall be operated and funded by the state Department of Parks, as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;

(12) The authority may utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for such repairs and no other funds are available for such maintenance;

(13) Coordinate the Kentucky River basin water resources activities among state agencies;

(14) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue; and

(15) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority.

Section 3. KRS 151.730 is amended to read as follows:

(1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of its revenue bonds for the purpose of paying all or any part of the cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The principal of and the interest on ***the*** [~~such~~] bonds shall in each instance be payable solely from a special fund provided for ***the*** [~~such~~] payment, with revenues derived from fees collected from all facilities using water from the ***main stem of the*** Kentucky River [~~or its tributaries~~], except those facilities using water primarily for agricultural purposes, pledged to be set aside and deposited in ***the*** [~~such~~] special fund. The bonds of any issue may be in one (1) or more series and any one (1) or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest, shall mature at such time or times not exceeding the thirtieth (30th) anniversary of their respective dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this section shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the uniform commercial code of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds at public sale, and for such price as it may determine will best effect the purposes of KRS 151.720.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such a manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(4) The authority may issue revenue bond anticipation notes.

(5) Any holder of bonds issued under the provisions of this section or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent of the rights given in this section, may be restricted by such trust indenture or proceedings, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this section or under such trust indenture or the proceedings authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this section or by such trust indenture or proceedings to be performed by the authority or by any officer or employee thereof.

(6) Revenue bonds issued under the provisions of this section shall not be a debt, liability, or obligation of the Commonwealth or any political subdivision thereof and shall not be a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

(7) Revenue bonds issued by the authority shall not be subject to the jurisdiction or approval of the State Property and Buildings Commission or the Industrial Revenue Bond Oversight Committee but shall be subject to review by the Division of Investment and Debt Management.

(8) The authority shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality or other governmental subdivision of the Commonwealth upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this section, or upon any moneys, funds, revenues or other income held or received by the authority and the bonds or notes of the authority and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers.

(9) Contractual expenses to construct, reconstruct, provide for the major maintenance, or repair the Kentucky River locks and dams, or to maintain the channel, or to acquire real or personal property pertaining thereto, or to construct, reconstruct, maintain, or repair such property, shall be paid from the proceeds of the revenue bonds. Expenses for administrative services provided to the authority by the Natural Resources and Environmental Protection Cabinet, necessary travel expenses and per diem compensation of authority members, shall not be paid from the proceeds of the revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the proceeds of the revenue bonds."; and

On page 3, by deleting "Section 2" and inserting in lieu thereof "Section 4".

Representative Stumbo announced that there would be a Majority Caucus in the State Reception Room upon recess.

Representative Noland announced that there would be a Minority Caucus in Room 127 upon recess.

Floor Amendments (Continued)

Floor Amendment No. 2 to **HB 133**, by Representative Barrows:

Amend printed copy of **HB 133** on page 14, line 6, by adding thereafter:

"Section 2. KRS 61.615 is amended to read as follows:

(1) ***When*** [~~Whenever~~] the recipient of a disability retirement allowance is, prior to his normal retirement date, engaged in gainful occupation, the board at its discretion may reduce ***the*** [~~such~~] retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the board of ***the*** [~~such~~] employment;[~~,~~] otherwise, the board shall have the right to recover payments made during ***the*** [~~such~~] employment.

(2) ***If*** [~~Should~~] it ***is*** [~~be~~] determined that any disabled recipient is able to engage in gainful occupation, and ***if*** [~~should~~] the board ***finds*** [~~find~~] that ***the*** [~~such~~] person ***has*** [~~shall have~~] refused any employment considered by the board suitable to his capacity, he shall not be entitled to any [~~such~~] allowance during the continuance of ***the*** [~~such~~] refusal, unless in the opinion of the board ***the*** [~~such~~] refusal was justified.

(3) The board shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the board shall utilize procedures consistent with KRS 61.665, including services of an examiner in determining the amount of reduction in retirement allowance under this section.

(4) If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

(a) The member ***shall*** [~~may~~] not change his beneficiary or payment option;

(b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2) [~~and further reduced by the actuarial value of the total amount of the disability retirement allowances he has received prior to reduction or discontinuation~~];

(d) The member shall remain eligible for reinstatement of his disability allowance upon re-evaluation by the medical review board until his normal retirement age; and

(e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(5) No disability retirement allowance shall be reduced or discontinued by the board after the member's normal retirement date except in case of re-employment as provided for by KRS 61.637. ***If*** [~~In any case where~~] a disability retirement allowance has been reduced or discontinued, ***if*** [~~except where~~] the member is re-employed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment.[~~, provided however,~~] No reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 3. KRS 61.691 is amended to read as follows:

(1) The board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky Employees Retirement System as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period.

(2) [~~Effective August 1, 1990, each recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 whose retirement date preceded January 1, 1982, shall have his benefits increased two dollars and fifty cents ($2.50) for each year the retirement allowance has been drawn. This increase in retirement allowance shall be calculated and applied to the recipient's retirement allowance prior to any other increase provided for in this section.~~

~~(3)~~] Effective ***August 1, 1992***, [~~August 1, 1990~~] and July 1, ***1993*** [~~1991~~], a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by ***one percent (1%)*** [~~two and nine-tenths percent (2.9%)~~].

(3)[~~(4)~~] A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.

Section 4. The amendment of KRS 61.615(4)(c) in Section 2 of this Act shall be retroactive to July 15, 1988. Any disability retiree whose early retirement benefit was reduced by the actuarial value of the total amount of the disability retirement allowances received prior to reduction or discontinuance shall be paid the amount of the reduction between July 15, 1988, and the effective date of this Act, and there shall be no such reduction thereafter.";

and on page 14, line 7, by renumbering "Section 2." to read "Section 5."

Recess

Representative Stumbo moved that the House recess for meetings of the Majority Caucus and the Minority Caucus. Agreed.

At the appointed hour, the Speaker Pro Tempore resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 638**, by Representative Freibert:

Amend printed copy of **HB 638** on page 2, by deleting lines 9 through 18 in their entirety; and

On page 2, line 19, by deleting *"(5)"* and inserting in lieu thereof *"(4)"*

Floor Amendment No. 1 to the House Committee Substitute to **SB 28**, by Representative Gedling:

Amend printed copy of **SB 28/HCS** on page 1, line 19, by inserting after "*used*" and before the semicolon the following:

"***. A valuation of the property shall not be required if the purchase price is forty thousand dollars ($40,000) or less***".

Floor Title Amendment to **HB 365**, by Representative Bentley:

Amend printed copy of **HB 365** Title on page 1, by amending the title to read "AN ACT relating to expenditures for public safety programs."

Floor Amendment No. 3 to the Committee Substitute to **HB 418**, by Representative Heleringer:

Amend printed copy of Committee Substitute for **HB 418** on page 3, line 11, after "***operation.***" by inserting:

"SECTION 2. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in soil mining or soil dredging within one hundred (100) feet of a stream without first obtaining a permit from the cabinet.

(2) The cabinet shall review and approve permit applications for soil mining or soil dredging on a case by case basis and shall consider the effects of the activity on public water supplies, aquatic habitat, floodplains, water quality, recreation, and other valuable uses of the stream.

(3) Soil mining or soil dredging that affects less than two hundred (200) contiguous feet of a stream shall be exempt from the requirement for obtaining a permit."; and

On line 12, after "Section" by changing "2" to "3".

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 198, by Representative Riggs: A RESOLUTION in recognition of The Brown School students for their interest in the legislative process.

Representative Riggs moved the adoption of the following **HR 198**:

HR 198, A RESOLUTION in recognition of The Brown School students for their interest in the legislative process.

WHEREAS, The Brown School in Louisville, Kentucky has been enhancing educational opportunities for children in grades one through twelve since its beginning in 1972; and

WHEREAS, the seventh and eighth grade social studies students of The Brown School are studying the legislative process and visiting the Kentucky General Assembly to expand their knowledge of this process;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body commends the seventh and eighth grade students of The Brown School for their interest in government and the democratic process.

Section 2. That this honorable body hails Faye Ragsdale-Hussey for her dedication as a teacher of social studies and the genuine interest she exhibits toward her students.

Section 3. That this honorable body recognizes the standard of academic excellence established by the administration and student body of The Brown School, and wishes them success in future endeavors.

Section 4. That the Clerk of the House is directed to transmit copies of this Resolution to Ms. Lennie Hay, Principal, and Ms. Faye Ragsdale-Hussey, The Brown School, 546 South First Street, Louisville, Kentucky 40202.

HR 198 was adopted by voice vote.

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution and to introduce guests. Agreed.

Representative Castleman moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 200, by Representative Castleman: A RESOLUTION honoring the Fancy Farm Elementary School's Quick Recall Team.

Representative Castleman moved the adoption of the following **HR 200**:

HR 200, A RESOLUTION honoring the Fancy Farm Elementary School's Quick Recall Team.

WHEREAS, the Fancy Farm Elementary School's Quick Recall Team is here in the House of Representatives, today; and

WHEREAS, it has been said that "memory is the thing you forget with," but this is not the case for the teammates of Fancy Farm Elementary School's Quick Recall Team; and

WHEREAS, this small school body progressed from the district and regional championships to the State Governor's Cup, competing against teams from much larger schools; and

WHEREAS, these seven members, their sponsors and principal, have brought pride to all in the Commonwealth, and especially to western Kentuckians; and

WHEREAS, our honored guests are principal, Carol Higdon; sponsor, Susan Barton; and teammates Christy Barendregt, Clint Wilson, Paul Ivie, John Toon, James Wise, Daniel Burgess and Nathan Lamb;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives is proud to honor and commend the Fancy Farm Elementary School's Quick Recall Team for competing so successfully in the State Governor's Cup.

Section 2. That the House of Representatives congratulates principal, Carol Higdon, sponsor, Susan Barton, all teammates and everyone else involved in the outstanding performance of the Fancy Farm Elementary School's Quick Recall Team.

Section 3. That this honorable body thanks each of them for coming to Frankfort.

Section 4. That Representative Robbie Castleman proudly presents the team with a copy of this Resolution.

Section 5. That the Clerk of the House of Representatives is directed to transmit nine copies of this Resolution to Carol Higdon, Principal, Fancy Farm Elementary School, P. O. Box 96, Fancy Farm, Kentucky 42039.

HR 200 was adopted by voice vote.

Representative Castleman moved that a call of the roll be taken to show co-sponsors of **HR 200**.

On the roll call the vote was yeas 94—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Stumbo, Toby, Todd, Turner, Williams, Worthington, Yates, Zimmerman. Nays 0.

Senate Message (Continued)

Announcing passage of **SB 195**, **SB 205**, **SB 242**, **SB 270**, **SB 311**, **SB 329**, **HB 137**, **HB 437** and **HB 492**. (Time: 3:21 p.m.)

Representative Ravenscraft moved that the rules be suspended to introduce guests. Agreed.

Representative Reinhardt moved that the rules be suspended to introduce guests. Agreed.

Representative Stumbo moved that the rules be suspended to introduce guests. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 117** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:23 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 749**, by Representative Palumbo:

Amend printed copy of **HB 749/HCS** on page 23, by deleting lines 6 through 8 in their entirety, and on line 9 by deleting the following: "***located during the immediately preceding calendar year***".

Floor Amendment No. 1 to the Committee Substitute to **HB 576**, by Representative Lewis:

Amend printed copy of **HB 576/HCS** on page 19, line 12, by deleting "***a***".

Floor Amendment No. 1 to **HB 631**, by Representative Riggs:

Amend printed copy of **HB 631** on page 2, line 6, delete "***recognized***" and insert in lieu thereof "***generally accepted***"

Floor Amendment No. 5 to the Committee Substitute to **HB 749**, by Representative Turner:

Amend printed copy of **HB 749/HCS** on page 8, after line 17, by adding the following:

"***(c) Five percent (5%) of all money on deposit in the fund to a trust and agency revolving account under the authority of the Kentucky Department of Agriculture, to be used to assist dairy farmers in an effort to keep Kentucky from losing one of its major industries. This provision shall become effective when the price of bulk milk paid to dairy farmers falls below thirteen dollars and fifty cents ($13.50) per hundred weight. Money in this account shall be distributed to dairy farmers on a pro rata basis determined by the amount of milk produced and sold in the Commonwealth of Kentucky by each dairy farmer.***"

Floor Title Amendment to **HB 749**, by Representative Turner:

Amend printed copy of **HB 749** Title by amending the title to read as follows:

"AN ACT relating to hooved animals."

Floor Amendment No. 4 to the Committee Substitute to **HB 749**, by Representative Palumbo:

Amend printed copy of **HB 749/HCS** on page 15, line 20, after the word "***meeting***" by adding the following, "***and the receiving track is licensed to conduct thoroughbred racing***".

On page 15, line 24, after the word "***meeting***" by adding the following, "***and the receiving track is licensed to conduct harness racing. If the host track and the receiving track are licensed to conduct racing of different breeds, the development fund money deducted under this subsection shall be divided evenly between the two development funds***".

On page 68, line 12, after the word "races,", by inserting the following: "***to promote the breeding industry,***".

Orders of the Day

SB 123, with Committee Amendment and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Amendment No. 1 to **SB 123**. Agreed.

Representative B. Smith moved that **SB 123**, as amended, be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See March 12, 1992 roll call on **SB 123** - Appendix.)

SB 123, as amended, was passed.

Representative B. Smith moved the adoption of the Committee Title Amendment to **SB 123**. Agreed; and the title was agreed to.

Representative B. Smith moved that the vote by which **SB 123**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative R. Smith moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 197, by Representative R. Smith: A RESOLUTION adjourning the House in honor of Bill Bishop.

Representative R. Smith moved the adoption of the following **HR 197**:

HR 197, A RESOLUTION adjourning the House in honor of Bill Bishop.

WHEREAS, this chamber has always supported and encouraged the Arts, in recognition that the free and creative spirit of mankind must, and should be, unfettered by the surly dominion of facts; and

WHEREAS, fiction writing in particular, the creation of stories from thin air, the telling of tall tales with no reference to reality, is a noble and distinguished Art; and

WHEREAS, there moves among us one Bill Bishop, who has proven himself most adroit in these endeavors, weaving strange, fantastic tales from the strange land of his own fantastic mind, tales no man or woman could imagine true, yet all enjoy as fantasy; and

WHEREAS, this same Bill Bishop has also shown himself the most remarkable of experts, self-proclaimed, and self-appointed, a man who keeps the true score on every subject from education to the environment, from women's rights to public decorum, and all who hear his pronouncements listen in awestruck wonder to his wisdom; and

WHEREAS, several Gentlemen of this Chamber, known to us all yet nameless here for reasons of keeping them humble, have basked in the glow of Bill Bishop's wondrous Art, as he weaved fabulous fictions around them, reinventing them as heroes in his tales of the bizarre; and

WHEREAS, this body also believes it may be germane to note that in medieval times, when the Bishop scorned the King, the King could have his head, although happily such barbarity is behind us and this body does not endorse its return;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this esteemed institution does hereby commend the Art of Bill Bishop and crowns him Fiction Laureate of Kentucky and this body's surest source of amusement and uplift in its occasional dark hours of despair.

Section 2. That when the House of Representatives does adjourn this day, it does so in honor of Bill Bishop.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Bill Bishop, Lexington Herald Leader, Main and Midland, Lexington, Kentucky 40506.

HR 197 was adopted by voice vote.

Representative R. Smith moved that a call of the roll be taken to show co-sponsors of **HR 197**.

On the roll call the vote was yeas 40—Adkins, Allen, Bentley, Blandford, Bronger, Brown, Butler, Castleman, L. Clark, Collins, Crupper, Curd, Cyrus, Deskins, Freibert, Gedling, Geveden, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lewis, Lyne, Mason, McElroy, Mullinix, Nelson, Northup, Overstreet, Rapier, Ravenscraft, Richards, Richardson, Sanders, R. Smith, T. Smith, Stumbo, Yates. Nays 10—Altman, Bryant, Burch, Donnermeyer, Ford, Hancock, Heleringer, Noe, Noland, Nunn.

Orders of the Day (Continued)

HB 433, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **HB 433**. Agreed.

Representative Lewis moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 433**. Agreed.

Representative Morris moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 433**. Agreed.

Representative Lewis moved that **HB 433**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 2. (See March 12, 1992 roll call on **HB 433** - Appendix.)

HB 433, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 433**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 666, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Floor Amendment No. 1 to **HB 666**. Agreed.

Representative Crupper moved that **HB 666**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 12, 1992 roll call on **HB 666** - Appendix.)

HB 666, as amended, was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 666**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 749**, by Representative Johnson:

Amend printed copy of **HB 749/HCS** on page 8, line 26, after the word "***from***" by deleting the words "***a general fund***"; and

on page 9, by deleting line 1 in its entirety; and

on page 9, line 2, by deleting the words "***forth in the appropriations act***" and inserting in lieu thereof the following: "***track commissions described in Section 8 and Section 34 of this Act***"

Floor Amendment No. 1 to **HB 392**, by Representative Gregory:

Amend printed copy of **HB 392** on page 7, line 20, after the the word "***the***" by inserting the following: "***legislative body***" and by removing the closing bracket after the word "[~~such~~]" and placing a closing bracket after the word "authority" and striking through the same.

Floor Amendment No. 6 to the Committee Substitute to **HB 749**, by Representative Strong:

Amend printed copy of **HB 749/HCS** on page 8, line 26, after the word "***from***" by deleting the words "***a general fund***"; and

on page 9, by deleting line 1 in its entirety; and

on page 9, line 2, by deleting the words "***forth in the appropriations act***" and inserting in lieu thereof the following: "***track commissions described in Section 8 and Section 34 of this Act***"

Floor Amendment No. 1 to **HB 800**, by Representative Donnermeyer:

Amend printed copy of **HB 800** on page 1, line 15, after the word "firemen", by inserting and underlining, "***neither of which is a fire chief or assistant fire chief***"; and page 1, line 18, after the word "***firefighter***" by inserting and underlining, "***and none of whom shall be a fire chief or assistant fire chief***".

Orders of the Day (Continued)

HB 605, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 605**. Agreed.

Representative L. Clark moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 605**. Agreed.

Representative L. Clark moved that **HB 605**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 82, Nays 4. (See March 12, 1992 roll call on **HB 605** - Appendix.)

HB 605, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 605**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 198, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved the adoption of the Committee Substitute to **HB 198**. Agreed.

Representative Bowling moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 198**. Agreed.

Representative Bowling moved that **HB 198**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 12, 1992 roll call on **HB 198** - Appendix.)

HB 198, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 198**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 607, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute to **HB 607**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 607**. Agreed.

Representative Clarke moved that **HB 607**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 27. (See March 12, 1992 roll call on **HB 607** - Appendix.)

HB 607, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 607**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 7 to the Committee Substitute to **HB 749**, by Representative LeMaster:

Amend printed copy of **HB 749/HCS** on page 82, after line 14, by adding the following:

"Section 41. Whereas the funding of the Breeders Award Fund from simulcasting revenues is dependent on the expedient development of simulcast facilities, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor."

Floor Title Amendment No. 2 to **HB 749**, by Representative LeMaster:

Amend printed copy of **HB 749** by amending the title to read as follows:

"AN ACT relating to horse racing and declaring an emergency."

Floor Amendment No. 1 to the Committee Substitute to **HB 540**, by Representative Rapier:

Amend printed copy of **HB 540/HCS** on page 1, by deleting lines 1 through 21 in their entirety and by deleting all lines on pages 2 through 37 in their entirety and inserting in lieu thereof the following:

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any person possessing or controlling a hazardous substance, pollutant, or contaminant shall, as soon as that person has knowledge of a release or threatened release (other than a permitted release or application of a pesticide) of a hazardous substance, pollutant, or contaminant from a site, as defined by KRS 224.01-400, to the environment in a quantity equal to or exceeding the reportable quantity determined by Section 2 of this Act in any twenty-four (24) hour period, immediately notify the Department of Environmental Protection's twenty-four (24) hour environmental response line. In the notice the person shall state, at a minimum, the location of the release or threatened release, the material released or threatened to be released, and the approximate quantity and concentration of the release or threatened release.

(2) The cabinet may require the person subject to subsection (1) of this section to provide a written report on the release or threatened release. This report shall be submitted to the Environmental Response Section of the Department for Environmental Protection within seven (7) days of the department's demand for the report. The report shall identify the following:

(a) The precise location of the release or threatened release;

(b) The name, address, and phone number of the person possessing or controlling the material at the time of the release or threatened release;

(c) The name, address, and phone number of individuals having actual knowledge of the facts surrounding the release or threatened release;

(d) The specific pollutant or contaminant or hazardous substance released or threatened to be released;

(e) The concentration and quantity of the pollutant or contaminant or hazardous substance in the release or threatened release;

(f) The circumstances and cause of the release or threatened release;

(g) Efforts taken by the person to control or mitigate the release or threatened release;

(h) To the extent known, the harmful effects of the release or threatened release;

(i) The transportation characteristics of the medium or matrix into which the material was released or threatened to be released;

(j) Any present or proposed remedial action by the person at the site of the release or threatened release;

(k) The name, address, and phone number of the individual who can be contacted for additional information concerning the release or threatened release; and

(l) Any other information that may facilitate an emergency spill response, or remediation of the site.

(3)(a) The person possessing or controlling a hazardous substance, pollutant, or contaminant shall immediately notify the department pursuant to subsection (1) of this section whenever notification is provided to U.S. Environmental Protection Agency under 40 C.F.R. 302.8(c). Within seven (7) days of providing any written notification to the U.S. Environmental Protection Agency under 40 C.F.R. 302.8, the person shall submit to the Environmental Response Section, a copy of the notification submitted to the U.S. Environmental Protection Agency.

(b) The cabinet shall not require additional information pursuant to this section for releases subject to 40 C.F.R. 302.8 if the notification is in compliance with paragraph (a) of this subsection, unless a written report is required under subsection (2) of this section.

SECTION 2. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The elements or compounds in hazardous waste appearing in 40 C.F.R. 302, Table 302.4 and 40 C.F.R. 302, Appendix B are designated as hazardous substances under KRS 224.01-400. The provisions of 40 C.F.R. 302 Table 302.4, and Appendix B, as of the effective date of this Act, are incorporated by reference and made a part of this section.

(2) A solid waste, as defined in 40 C.F.R. 261.2, which is not excluded from regulation as a hazardous waste under 40 C.F.R. 261.4(b), is a hazardous substance under KRS 224.01-400 if it exhibits any of the characteristics identified in 40 C.F.R. 261.20 through 261.24.

(3) The elements or compounds appearing in 40 C.F.R. 355, Appendix are designated as pollutants or contaminants under KRS 224.01-400. The provisions of 40 C.F.R. 355, Appendix, and substances regulated under KRS 224.50-130, as of the effective date of this Act, are hereby incorporated by reference and made a part of this section.

(4) The quantity listed in column "Final RQ" for each substance incorporated in subsection (1) of this section is the reportable quantity for that substance. The reportable quantities in 40 C.F.R. 302, Table 302.4 are in units of pounds based on chemical toxicity, while the reportable quantities in 40 C.F.R. 302, Appendix B are in units of curies based on radiation hazard. Whenever the reportable quantities incorporated in subsection (1) of this section are in conflict, the lowest reportable quantity shall apply.

(5) Hazardous substances without a listed reportable quantity have the reportable quantity of one hundred (100) pounds except for those unlisted hazardous wastes which are toxic as measured by the toxicity characteristic leaching procedure in 40 C.F.R. 261.24. Hazardous wastes without a listed reportable quantity which are toxic as measured by toxicity characteristic leaching procedure have the reportable quantities listed in 40 C.F.R. 302, Table 302.4 for the contaminant on which the toxicity characteristic leaching procedure toxicity is based. The reportable quantity applies to the waste itself, not merely to the toxic contaminant. If an unlisted hazardous waste exhibits toxicity characteristic leaching procedure toxicity on the basis of more than one (1) contaminant, the reportable quantity for that waste shall be the lowest of the reportable quantities listed in 40 C.F.R. 302, Table 302.4 for those contaminants. If an unlisted hazardous waste exhibits the characteristics of toxicity characteristic leaching procedure toxicity on one (1) or more of the other characteristics, the reportable quantity for that waste shall be the lowest of the applicable reportable quantities.

(6) The quantity listed in the column "Final RQ" for each pollutant or contaminant in 40 C.F.R. 355, Appendix is the reportable quantity for that pollutant or contaminant. The reportable quantities in 40 C.F.R. 355, Appendix are in units of pounds.

(7) The cabinet may promulgate administrative regulations in accordance with the provisions of KRS Chapter 13A designating individual hazardous substances, pollutants, or contaminants, and their respective reportable quantities which differ from those designated in subsections (1) through (6) of this section if it is necessary to:

(a) Protect human health and the environment;

(b) Maintain consistency with valid scientific development; or

(c) Maintain consistency with newly promulgated federal regulations.

(8) Releases of mixtures or solutions (including hazardous waste streams) of hazardous substances, except for radionuclides, and pollutants or contaminants are subject to the following notification requirements:

(a) If the quantities of all of the hazardous constituents of the mixture or solution are known, notification is required where a reportable quantity of one (1) of any hazardous constituent is released; or

(b) If the quantity of one (1) or more of the hazardous constituents of the mixture or solution is unknown, notification is required where the total amount of the mixture or solution released equals or exceeds the reportable quantity for the hazardous constituent with the lowest reportable quantity.

(9) Whenever a release of a hazardous substance, pollutant, or contaminant exceeds its permitted or authorized level by a reportable quantity or more, notification for the release shall be made in accordance with Section 1 of this Act.

SECTION 3. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any person in charge of a vessel or site from which petroleum, including crude oil or any fraction thereof, is discharged in a harmful quantity as defined in 40 C.F.R. Part 110 in contravention of Section 311 of the Clean Water Act shall immediately notify the Department for Environmental Protection's twenty-four (24) hour environmental response line. In the notice to be made to the Department for Environmental Protection, the person shall state, at a minimum, the location of the discharge, the material discharged, and the approximate quantity and concentration of the discharge.

(2) The cabinet may require the person subject to subsection (1) of this section to provide a written report on the discharge. This report shall be submitted to the Environmental Response Section of the Department for Environmental Protection within seven (7) days of the department's demand for the report. The report shall identify the following:

(a) The precise location of the discharge;

(b) The name, address, and phone number of the person possessing or controlling the material at the time of the discharge;

(c) The name, address, and phone number of individuals having actual knowledge of the facts surrounding the discharge;

(d) The concentration and quantity of the discharge;

(e) The circumstances and cause of the discharge;

(f) Efforts taken by the person to control or mitigate the discharge;

(g) To the extent known, the harmful effects of the discharge;

(h) The transportation characteristics of the medium or matrix into which the material was discharged;

(i) Any present or proposed remedial action by the person at the site of the discharge;

(j) The name, address, and phone number of the individual who can be contacted for additional information concerning discharge; and

(k) Any other information that may facilitate an emergency spill response, or remediation of the site.

(3) The release or threatened release into the environment of more than twenty-five (25) gallons of nondiesel gasoline or the release or threatened release into the environment of more than seventy-five (75) gallons of diesel fuel, other than a permitted release or application of a pesticide, shall require compliance with any applicable provisions of subsections (1) and (2) of this section.

(4) A release or threatened release of any pollutant or contaminant into the environment shall be reported whenever the release or threatened release may present an imminent or substantial danger to the public health or welfare. If a person possessing or controlling a pollutant or contaminant fails to report a release or threatened release because of a good faith belief that the material did not present an imminent or substantial danger to the public health or welfare, that person shall not be liable for a violation of Sections 1 to 6 of this Act.

(5) Nothing contained in this section shall be construed to lessen the requirements imposed by law during an environmental emergency.

SECTION 4. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Timely notification received under Sections 1 or 3 of this Act or information obtained in a notification received under Sections 1 or 3 may not be used against the person making the notification in any criminal proceeding, except in a prosecution for submitting a false or untimely notification to the cabinet. Notification received by the cabinet of a threatened release shall not be deemed a separate incident.

Section 5. KRS 224.01-400 is amended to read as follows:

(1) As used in ***Sections 1 to 5 of this Act*** [~~this section~~]:

(a) "Hazardous substance" means any substance ***specified in subsections (1) or (2) of Section 2 of this Act or meeting the requirements of subsection (7) of Section 2 of this Act except that the term "hazardous substance" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under this section, and shall not include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas)*** [~~or combination of substances including wastes of a solid, liquid, gaseous or semi-solid form which, because of its quantity, concentration or physical, chemical or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health or the environment. The substances may include but are not limited to those which are, according to criteria established by the cabinet, toxic, corrosive, ignitable, irritants, strong sensitizers or explosive~~];

(b) "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing hazardous substances, pollutants, or contaminants into the environment, including the abandonment or discarding of barrels, containers, and other closed receptacles containing any hazardous substance, pollutant, or contaminant, but excludes emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, vessel, or pipeline pumping station engine; the release of source, by-product, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, if the release is subject to requirements with respect to financial protection established by the Nuclear Regulatory Commission under Section 170 of the Act, or any release of source by-product, or special nuclear material from any processing site designated under Sections 102(a)(1) or 302(a) of the Uranium Mill Tailing Radiation Control Act of 1978; and the normal application of fertilizer;

(c) "Site" means any building, structure, installation, equipment, pipe, or pipeline, including any pipe into a sewer or publicly-owned treatment works, well, pit, pond, lagoon, impoundment, ditch, landfill, storage containers, motor vehicles, rolling stock, or aircraft, or any other place or area where a release or threatened release has occurred. The term shall not include any consumer product in consumer use;

(d) "Site assessment" means investigations, monitoring, surveys, testing, analyses, and other information gathering activities sufficient to identify the existence, source, nature, and extent of a release or threatened release of a hazardous substance; the impact of the release or threatened release of hazardous substance on public health and the environment; and an appropriate restoration or remedial action consistent with ***the provisions of Sections 1 to 5 of this*** [~~the~~] Act;

(e) "Environmental emergency" means any release or threatened release of materials into the environment in such quantities or concentrations as cause or threaten to cause an imminent and substantial danger to human health or the environment; the term includes, but is not limited to, discharges of oil and hazardous substances prohibited by Section 311(b)(3) of the Federal Clean Water Act - (Public Law 92-500), as amended;

(f) "Threatened release" means a circumstance which presents a substantial threat of a release;

(g) "Pollutant or contaminant" ***means any element or compound identified in subsection (3) of Section 2 of this Act or meeting the requirements of subsection (7) of Section 2 of this Act*** [~~shall include, but not be limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in such organisms or their offspring;~~] except that the term "pollutant or contaminant" shall not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under this section and shall not include natural gas, liquified natural gas, or synthetic gas of pipeline quality (or mixtures of natural gas and such synthetic gas); and

(h) "Environment" means the waters of the Commonwealth, land surface, surface, and subsurface soils and strata, or ambient air within the Commonwealth or under the jurisdiction of the Commonwealth.

(2) ***In accordance with*** [~~The cabinet shall promulgate regulations no later than one hundred eighty (180) days from July 13, 1990, designating the hazardous substances and pollutants or contaminants subject to the provisions of this section, provided that the regulations shall not designate as a hazardous substance any substance that is not a hazardous substance under the Federal Comprehensive Environmental Response Compensation and Liability Act, as amended.~~

~~(3) The cabinet shall promulgate regulations no later than one hundred eighty (180) days from July 13, 1990, designating for each hazardous substance and pollutant or contaminant the quantity of the hazardous substance and pollutant or contaminant for which release notification shall be provided to the cabinet under this section.~~

~~(4) Persons possessing or controlling a hazardous substance, pollutant or contaminant shall immediately notify the cabinet of any threatened release or any release to the environment of a hazardous substance, pollutant or contaminant in a reportable quantity which is not authorized by a permit issued by the cabinet or the United States Environmental Protection Agency, or any federally permitted release authorized by the Comprehensive Environmental Response and Liability Act (CERCLA), unless otherwise exempt from reporting by regulation of the cabinet. Timely notification received under this subsection or information obtained in a notification received under this subsection may not be used against the person making the notification in any criminal proceeding, except in a prosecution for submitting a false or untimely notification to the cabinet. Notification received by the cabinet of a threatened release shall not be deemed a separate incident.~~

~~(5) Except as provided in~~] subsection *(7)*[~~(10)~~] of this section, persons having possession of or control over a hazardous substance, pollutant, or contaminant being released or who caused the release shall take the actions necessary to restore the environment to the extent practicable and minimize the harmful effects from any release into the air, lands, or waters of the Commonwealth.

(3)[~~(6)~~] The cabinet shall be the lead agency for hazardous substance, pollutant, or contaminant emergency spill response and, after consultation with other affected federal, state and local agencies, and private organizations, shall establish a contingency plan for undertaking emergency actions in response to the release of a hazardous substance, pollutant, or contaminant. The contingency plan shall:

(a) Provide for efficient, coordinated and effective action to minimize damage to the air, land, and waters of the Commonwealth caused by the release or threatened release of hazardous substances;

(b) Include containment, cleanup, and disposal procedures;

(c) Provide for remediation or restoration of the lands or waters affected consistent with this section;

(d) Assign duties and responsibilities among state cabinets and agencies in coordination with federal and local agencies;

(e) Provide for the identification, procurement, maintenance, and storage of necessary equipment and supplies;

(f) Provide for designation of persons trained, prepared, and available to provide the necessary services to carry out the plan; and

(g) Establish procedures and techniques for identifying, containing, removing, and disposing of hazardous substances released or being released.

(4)[~~(7)~~] The cabinet shall have the authority, power and duty to:

(a) Recover from persons liable therefor for the benefit of the hazardous waste management fund, the cabinet's actual and necessary costs expended in response to a threatened release, an environmental emergency, or a release of a hazardous substance reportable under ***Section 1*** [~~subsection (4)~~] of this ***Act*** [~~section~~]. Except as provided in paragraph (b) of this subsection, this section is intended solely to recognize the existence of a cause of action on behalf of the cabinet and is not intended to expand or contract the bases of liability, the elements of proof, or the amount of liability of any person;

(b) Notwithstanding paragraph (a) of this subsection, recover its costs incurred in the removal of oil or hazardous substances discharged in violation of Section 311(b)(3) of the Federal Clean Water Act from any person liable therefor under Section 311 of the Federal Clean Water Act subject to limitations of liability and defenses provided in said section. Such limitations of liability shall apply to the total of state and federal expenses;

(c) In every case where action required under this section is not being adequately taken or the identity of the person responsible for the release or threatened release is unknown, the cabinet or its agent may contain, remove or dispose of the hazardous substance, pollutant, or contaminant or take any other action consistent with this section, including, but not limited to, issuance of an emergency order as provided in KRS 224.10-410 to the person possessing, controlling or responsible for the release or threatened release as necessary for the protection of the environment and public health, safety or welfare;

(5)[~~(8)~~] Any duly authorized officer, employee, or agent of the cabinet may upon notice to the owner or occupant enter any property, premises, or place at any time for the purposes of this section, if such entry is necessary to prevent damage to the air, land, or waters of the Commonwealth. Notice to the owner or occupant shall not be required if the delay attendant upon providing it will result in imminent risk to public health or safety.

(6)[~~(9)~~] The cabinet shall prepare and annually update an inventory of all sites in the Commonwealth at which there is or has been an environmental emergency or a release of a hazardous substance, pollutant, or contaminant. In preparing the inventory, the cabinet shall determine, based on information available to the cabinet, the impact of each site on public health and the environment and identify the relative priority for restoration or remedial action. Upon determining that no further restoration or remedial action is necessary, the cabinet shall so designate the site on the inventory. A separate designation of sites where a remedial action involving on-site containment or treatment has been performed and other sites where restoration of the environment has not been achieved shall be maintained. A review of environmental conditions at sites remediated by on-site containment or treatment and other sites where restoration or remediation of the environment is not achieved shall be conducted by the cabinet every five (5) years to determine whether additional action is necessary to protect human health or the environment.

(7)[~~(10)~~] ***(a) The remedial action required under subsection (2) of this section shall consist of those measures that are determined by the cabinet to protect human health, safety, and the environment. The cabinet may require the submission of information reasonably necessary to determine the action to be taken. In determining the action to be taken, the cabinet shall make the determination based on factors listed in paragraph (b) of this subsection. However, in no case shall the cabinet require or take remedial action involving the removal or containment of hazardous substances, pollutants, or contaminants below levels found in environmental media naturally in the vicinity of the release or as a result of activities unrelated to the release. Upon making any remedial action determination, the cabinet shall issue a statement of consideration explaining how the factors in paragraph (b).of this subsection were considered. The statement of consideration shall be issued within sixty (60) days of submission of information requested by the cabinet.***

(b) The factors to be considered by the cabinet are as follows [~~Upon a cabinet determination that an application satisfies the requirements of this subsection, remedial action may be conducted in response to a release of a hazardous substance, pollutant, or contaminant. The remedial action shall protect human health, safety, and the environment considering the following factors as appropriate~~]:

1.[~~(a)~~] The characteristics of the substance, pollutant, or contaminant, including its toxicity, persistence, environmental fate and transport dynamics, bioaccumulation, biomagnification, and potential for synergistic interaction and with specific reference to the environment into which the substance, pollutant, or contaminant has been released;

2.[~~(b)~~] The hydrogeologic characteristics of the facility and the surrounding area;

3.[~~(c)~~] The proximity, quality, and current and future uses of surface water and groundwater;

4.[~~(d)~~] The potential effects of residual contamination of potentially impacted surface water and groundwater;

5.[~~(e)~~] The chronic and acute health effects and environmental consequences to terrestrial and aquatic life of exposure to the hazardous substance, pollutant, or contaminant through direct and indirect pathways;

6.[~~(f)~~] An exposure assessment; and

7.[~~(g)~~] All other available information ***including, but not limited to, any relevant federal regulation, guideline, or published policy related to contamination of environmental media.***

(8)[~~(11)~~] The cabinet shall have a lien against the real and personal property of a person liable for the actual and necessary costs expended in response to a release or threatened release or an environmental emergency. The lien shall be filed with the county clerk of the county in which the property of the person is located.

(9)[~~(12)~~] Nothing in this section shall replace the financial and technical assistance available to the Commonwealth pursuant to Section 311 of the Federal Clean Water Act (Public Law 92-500) as amended, but rather shall be used to provide the Commonwealth with a mechanism for additional response to releases and threatened releases of hazardous substances, pollutants, or contaminants.

(10)[~~(13)~~] Defenses to liability and limitations to liability shall be determined in accordance with Sections 107(a) through (d) and 113(f)(1) of the Comprehensive Environmental Response Compensation and Liability Act, as amended, and the Federal Clean Water Act, as amended.

Section 6. KRS 224.99-010 is amended to read as follows:

(1) Any person who violates KRS 224.10-110(2) or (3), KRS 224.70-110, 224.73-120, 224.20-110, 224.46.580, 224.01-400, ***Section 1 or 3 of this Act,*** or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.99-020.

(2) Any person who violates subsections (4) or (5) of KRS 224.10-110, or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars ($5,000) for said violation and an additional civil penalty not to exceed five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.99-020.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for a term of not more than one (1) year, or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.40-305, or KRS 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who

violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.99-020.

(9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of such receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates a provision of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools.

(13) A violation of KRS 224.50-413 shall be subject to a fifty dollar ($50) fine for each day the violation continues.

Section 7. (1) There is hereby created a Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation, which shall be a commission established to provide recommendations to the Kentucky General Assembly on the House Committee Substitute for House Bill 540 which was reported from the House Committee on Natural Resources and Environment on Thursday, March 5, 1992. Recommendations may be offered at any time, but a final report shall be presented to the Legislative Research Commission no later than July 1, 1993. The Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation shall expire on April 15, 1994.

(2) The Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation shall be comprised of members as named or appointed as follows:

(a) Three (3) members to be appointed by the President Pro Tempore of the Senate;

(b) Three (3) members to be appointed by the Speaker of the House of Representatives;

(c) The Secretary of the Natural Resources and Environmental Protection Cabinet, or in his absence, his designee.

(3) The members shall be appointed until the Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation expires. Vacancies shall be filled in the same manner as the original appointments and for the balance of the term of the vacated member.

(4) A chairman shall be elected by the membership of the Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation.

(5) A majority of the membership shall constitute a quorum.

(6) The Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation shall be attached to the Legislative Research Commission for staff and administrative support. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

Section 8. The purpose of the Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation shall be to analyze the House Committee Substitute for House Bill

540 which was reported from the House Committee on Natural Resources and Environment on Thursday, March 5, 1992. The Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation shall prepare a report and recommendations addressing the provisions of the House Committee Substitute for House Bill 540, and any other areas of study deemed necessary by the Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation. The Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation may recommend funding and resources associated with its recommendations, which may include proposed legislation and administrative regulations. The report and recommendations shall be submitted to the Legislative Research Commission no later than July 1, 1993.

Section 9. All agencies of state government, their staffs, and employees shall provide the Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation with necessary information for the performance of its duties, and shall afford the Kentucky State Commission on Hazardous Substance, Pollutant, or Contaminant Release and Remediation and its staff ample opportunity to observe the agency's operations.

Floor Amendment No. 1 to **HB 732**, by Representative Stumbo:

Amend printed copy of **HB 732** on page 5, line 9, by deleting "***nine (9)***" and by inserting in lieu thereof "***seven (7)***"

On page 5, on line 12, by deleting "***, and the commissioner of the Department of***"

On page 5, line 13, by deleting "***Insurance***" and by deleting "***five (5)***" and inserting in lieu thereof "***four (4)***"

On page 5, line 15, by deleting "***five (5)***" and inserting in lieu thereof "***four (4)***"; and

On page 5, line 18, after "***Commonwealth***" by adding "***, except that one (1) of the members shall be knowledgeable in the area of workplace safety and health***"

On page 5, by deleting lines 22 and 23 in their entirety

On page 6, by deleting lines 10, 11, and 12 in their entirety

On page 6, by deleting lines 18, 19, 20, and 21 in their entirety

On page 6, line 22, by deleting "***(6)***" and by inserting in lieu thereof "***(5)***"

On page 7, line 1, by deleting "***(7)***" and by inserting in lieu thereof "***(6)***"

On page 7, after line 6, by adding "***(7) Members of the board shall be reimbursed for necessary expenses in attending meetings in accordance with administrative regulations promulgated for state employees pursuant to KRS 13A.***"

On page 16, line 11, after the "." by adding "***The employees of the association shall be eligible to participate in the Kentucky Retirement System and the Kentucky Public Employees Deferred Compensation System.***"

Floor Amendment No. 8 to the Committee Substitute to **HB 749**, by Representative Ford:

Amend printed copy of **HB 749/HCS** on page 4, line 11, after the word "***facility,***" by deleting the words "***the governing body of the local government***" and by deleting lines 12 through 20 in their entirety, and inserting in lieu thereof, the following: "***a special election shall be held in the jurisdiction in which the facility is to be located to approve or disapprove the establishment of the facility. The question shall be determined by a simple majority of those voting.***"

Floor Amendment No. 1 to **HB 701**, by Representative Stokes:

Amend printed copy of **HB 701** on page 1, line 6, after "(2)" by inserting "["; and

on page 1, lines 6 through 8, by striking through "In counties containing a city of the first class and in counties having an urban-county form of government, the amount"; and

on page 1, line 8, by deleting the brackets around the words "~~; if any,~~"; and on page 1, lines 8 and 9, by striking through "allowed for the necessary office expenses of each officer"; and

on page 1, line 9, by deleting "***, the number of deputies and***"; and

on page 1, by deleting lines 10 through 21 in their entirety; and

on page 2, by deleting lines 1 through 9 in their entirety; and

on page 2, line 10, by deleting "***personnel in each salary category***"; and

on page 2, line 10, after "***category***" by deleting "["; and

on page 2, line 13, by deleting "***(3)***"; and

on page 2, line 19, by deleting "***(4)***"; and

on page 2, lines 20 through 22, by deleting "***that do not contain a city of the first class or have an urban-county government***"; and

on page 2, line 24, after the first use of the word "court" by inserting "***or other primary legislative body***"; and

on page 2, line 24, after the second use of the word "court" by inserting "***or other primary legislative body***"; and

on page 3, line 2, after the period, by inserting the following:

"***Within a reasonable time before the necessary office expenses are fixed by the primary legislative body, the officer shall submit to the primary legislative body a detailed projection of all receipts and expenditures of the office, including, where applicable:***

(a) Receipts from the state, the county, school districts, other districts, licenses, taxes, record-keeping, court services, election duties, and investments;

(b) Disbursements to the state, the county, school districts, and other districts; and

(c) The total number of employees in the office, the number of employees in each salary category, and any employee bonuses."; and

on page 3, line 3, by deleting "***(5)***"; and

on page 3, line 3, by deleting the brackets and strikethrough from "~~(3)~~"; and

on page 3, line 13, by deleting "***(6)***"; and

on page 3, line 13, by deleting the brackets and strikethrough from "~~(4)~~"; and

on page 4, line 1, by deleting "***(7)*** ["; and

on page 4, line 1, by removing the strikethrough from "~~(5)~~"; and

on page 4, line 1, before "~~In~~" by inserting "["; and

on page 4, lines 9 through 11, by deleting "***that do not contain a city of the first class or have an urban-county government***"; and

on page 4, by deleting lines 20 through 26 in their entirety; and

on page 5, by deleting lines 1 through 12 in their entirety; and

on page 4, after line 19, by inserting the following:

"Section 2. KRS 43.070 is amended to read as follows:

(1) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the Auditor shall audit annually:

(a) The funds contained in each county's budget; and

(b) The books, accounts, and papers of all county clerks and sheriffs. ***The audit of a sheriff's office shall contain a comparison between budgeted revenues and actual revenues, and shall contain a comparison between budgeted expenses and actual expenses. The audit of a sheriff's office shall be on a program, or operating, basis, and shall contain separate statements of the revenues from each of the sheriff's duties, including tax collection, law enforcement, service to courts, election duties, and investments.***

(2) (a) The Auditor may audit the books, accounts and papers of all county judges/executive, county attorneys, coroners and constables; and

(b) The Auditor shall not conduct an audit pursuant to subsection (1)(a) or (b) of this section if the fiscal court or the elected official notifies the Auditor that a certified public accountant has been employed to audit the books, accounts and papers of the county or the fee office, in accordance with KRS 64.810.

(3) The county shall bear one-half (0.5) of the actual expense of the audit conducted pursuant to subsection (1)(a) of this section and shall bear the total actual expense of the audit conducted pursuant to subsections (1)(b) and (2) of this section. No county shall be required to bear the expense for more than one audit of the same fund or office annually pursuant to subsection (1)(a) or (b) of this section except as provided for in KRS 64.810(4).

(4) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the Auditor of Public Accounts shall bill the county for the expenses incurred pursuant to subsection (3) of this section. A copy of this bill shall be forwarded to the secretary of the Finance and Administration Cabinet. Should the fiscal court within sixty (60) days following receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the secretary of the Finance and Administration Cabinet and to the State Treasurer for resolution of the controversy in accordance with subsection (5) of this section. If the amount billed has not been paid within sixty (60) days from date of billing, and no objection has been filed, the Auditor shall notify the secretary of the Finance and Administration Cabinet and the secretary of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 by the state to the county or counties. Deductions shall continue until the total amount due the Auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the Auditor of Public Accounts. When an objection to the bill has been filed with the secretary of the Finance and Administration Cabinet and the State Treasurer in accordance with subsection (5) of this section the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

(5) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted by the fiscal court to the secretary of the Finance and Administration Cabinet and the State Treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the Attorney General, whose decision shall be final.

Section 3. This Act shall become effective on January 1, 1993."

Floor Amendment No. 9 to the Committee Substitute to **HB 749**, by Representative Heleringer:

Amend printed copy of **HB 749/HCS** on page 21, line 3, after "(4)" by inserting the following:

"Racing official" means a person who functions as an association steward, assistant racing secretary, placing judge, patrol judge, clerk of the scales, claims clerk, clerk of the course, paddock judge, timer, or starter";

On page 21, line 4, by placing an ending bracket after "commission" and removing the strikethroughs from the semicolon ";";

On page 21, line 5, by removing the ending bracket after "(5)" and removing the strikethroughs from "(5)";

On page 21, line 11, by deleting "***(5)***" and inserting in lieu thereof "***(6)***";

On page 21, line 13, before "(6)" by inserting "***(7)***" and placing brackets around "(6)" and striking through;

On page 21, line 17, before "(7)" by inserting "***(8)***" and placing brackets around "(7)" and striking through and renumbering subsequent subsections accordingly; and

On page 31, line 21, after "(4)" by inserting the following:

"***Upon approval of intertrack wagering by the commission, an association shall grant to its racing officials fifty dollars ($50) in unvouchered expense money per work day for each horse race meeting at which the racing official is actually utilized or employed, if the principal residence of the racing official is fifty (50) miles or more away from the horse race meeting.***"

Floor Amendment No. 2 to **HB 589**, by Representative Mason:

Amend printed copy of **HB 589** on page 1, lines 20 and 21, to delete the same and to insert in lieu thereof:

"***(c) Permit state employees to engage in disaster and emergency response activities either for state disaster and emergency services or upon request of a local disaster and emergency services agency to the division. State employees assigned to, or volunteering for, the duty shall be considered as being employed by the agency by which they are regularly employed and shall continue to receive salary and benefits while engaging in disaster and emergency services work. The division of disaster and emergency services shall be responsible for determining essential need of individual employee and the duration of need. Employee's supervisor shall retain authority to permit absence. State employees receiving compensation for their services through other state funding programs, such as members of the Kentucky National Guard placed on state active duty, shall be placed in an appropriate leave status to prevent receiving dual compensation.***"; and

on page 2, lines 1 through 12, to delete the same; and

on page 2, line 19, to delete "***and (2)***"; and

on page 2, line 19, to delete "***subsections***" and insert in lieu thereof "***subsection***".

Orders of the Day (Continued)

HB 241, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 241**.

Representative Sheehan inquired whether the Committee Substitute to **HB 241** is properly before the House.

The Chair ruled that the Committee Substitute to **HB 241** was not properly drafted and therefore is not properly before the House.

Representative Lear moved that the rules be suspended to consider the Committee Substitute to **HB 241** as drafted. Agreed.

Representative Lear moved the adoption of the Committee Substitute to **HB 241** as drafted. Agreed.

Representative Hancock moved that the Committee Substitute to **HB 241** be laid on the Clerk's Desk. Rejected.

Representative Lear moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 241**. Agreed.

Representative Hancock inquired whether the Committee Substitute to **HB 241** is before the House by way of a suspension of the rules.

The Chair ruled that the Committee Substitute to **HB 241** is before the House by way of a suspension of the rules.

Representative Lear moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 241**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 241**.

On the roll call the vote was yeas 80—Ackerson, Adkins, Allen, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Bronger, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Jensen, Johnson, Jones, Kerr, Lear, LeMaster, Lewis, Lile, Long, Lyne, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Northup, Nunn, Overstreet, Pritchett, Ravenscraft, Richards, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 1—Palumbo.

Floor Amendment No. 4 to the Committee Substitute to **HB 241** was adopted.

Representative Lear moved that **HB 241**, by way of Committee Substitute as amended, be passed.

Representative Sheehan moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 241**.

On the roll call the vote was yeas 54—Allen, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Ford, Gee, Geveden, Gray, K. Harper, Hatcher, Jensen, Johnson, Jones, Kerr, LeMaster, Lewis, Little, Mack, Mason, McElroy, Moberly, Mullinix, Napier, Noe, Overstreet, Reinhardt, Richards, Ridley, Sanders, Scorsone, Sheehan, R. Smith, T. Smith, Strong, Todd, Turner, Walker, Williams, Worthington. Nays 32—Ackerson, Adkins, Ark, Arnold, Ballard, Barrows, Burch, Casebier, Clarke, Farley, Farrow, Freibert, Gregory, Hancock, J. Harper, Lear, Lile, Long, Morris, Noland, Northup, Nunn, Palumbo, Pritchett, Ravenscraft, Riggs, B. Smith, Stokes, Stumbo, Toby, Wayne, Yates.

Floor Amendment No. 3 to the Committee Substitute to **HB 241** was adopted.

Representative Sheehan moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 241**. Agreed.

Representative Lear moved that **HB 241**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See March 12, 1992 roll call on **HB 241** - Appendix.)

HB 241, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 241**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to **HB 627**, by Representative Little:

Amend printed copy of **HB 627** on page 1, line 2, insert "*(1)*" before "Any"; and

On page 2, line 1, place an opening bracket before and strike through the word "The"; and

On page 2, lines 2 and 3, strike through those lines; and

On page 2, line 3, place a closing bracket after "Kentucky."; and

On page 2, after line 1, add the following:

"***(2) If an agreement for compensation for the construction of the pipeline cannot be reached, the corporation, partnership, or individual proposing to construct the pipeline shall deposit to the credit of the surface owner in the office of circuit clerk in the county or counties in which the well or pipeline is located a sum which the operator deems reasonable compensation. The surface owner may withdraw the deposit pending final disposition of the matter. The remedy of the surface owner shall be an action in the Circuit Court, for reasonable compensation, to be filed within ninety (90) days after the money is deposited by the operator with the circuit clerk. If no action is filed within that time, the sum of money deposited shall be deemed to be reasonable compensation. If reasonable compensation, as determined by the Circuit Court, exceeds the sum deposited with the circuit clerk, there shall be added to the compensation due the surface owner, a penalty of twenty percent (20%) of the difference between the amount deposited with the circuit clerk and the amount of the judgment. If the amount deposited with the circuit clerk is determined by the***

Circuit Court to be unreasonable, the surface owner shall be entitled to reasonable attorney's fees; but if the operator relied upon a third party appraiser's assessment of damages, there shall be no award of attorney's fees. If the award is less than the amount deposited with the circuit clerk, the surface owner shall repay the difference to the operator."; and

On page 2, add the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Every gas pipeline company obtaining gas from producing wells with the state shall offer each surface owner the right of a tap or hookup for natural gas from any gathering line which crosses the surface owner's property. The cost of the tap or hookup shall be borne by the consumer."

Floor Amendment No. 10 to the Committee Substitute to **HB 749**, by Representative LeMaster:

Amend printed copy of **HB 749/HCS** on page 53, line 19, after the word "track", by adding the following: "***licensed to conduct thoroughbred racing***" and on line 23, after the word "***Inc.***" by deleting "***, or***" and inserting in lieu thereof the following: "***. A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering***".

On page 53, line 25, after the word "***approvals.***" by adding the following: "***A track which conducts live racing of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission.***"

Orders of the Day (Continued)

HB 427, with Floor Amendment and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Floor Amendment No. 1 to **HB 427**. Agreed.

Representative Rapier moved that **HB 427**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See March 12, 1992 roll call on **HB 427** - Appendix.)

HB 427, as amended, was passed.

Representative Rapier moved the adoption of the Floor Title Amendment to **HB 427**. Agreed; and the title was agreed to.

Representative Rapier moved that the vote by which **HB 427**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 512, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 512**. Agreed.

Representative Donnermeyer moved that **HB 512**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 12, 1992 roll call on **HB 512** - Appendix.)

HB 512, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 512**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 584, with Committee Title Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **HB 584**. Agreed.

Representative Deskins moved that **HB 584**, as amended, be passed.

On the roll call the vote was: Yeas 57, Nays 32. (See March 12, 1992 roll call on **HB 584** - Appendix.)

HB 584, as amended, was passed.

Representative Deskins moved the adoption of the Committee Title Amendment to **HB 584**. Agreed; and the title was agreed to.

Representative Deskins moved that the vote by which **HB 584**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 652, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **HB 652**. Agreed.

Representative Morris moved that **HB 652**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 12, 1992 roll call on **HB 652** - Appendix.)

HB 652, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 652**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 527, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of Committee Amendment No. 1 to **HB 527**. Agreed.

Representative Gedling moved that **HB 527**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 12, 1992 roll call on **HB 527** - Appendix.)

HB 527, as amended, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 527**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 661, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Committee Amendment No. 1 to **HB 661**. Agreed.

Representative Lewis moved that **HB 661**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 12, 1992 roll call on **HB 661** - Appendix.)

HB 661, as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 661**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 675, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of Floor Amendment No. 1 to **HB 675**. Agreed.

Representative Gedling moved that **HB 675**, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 9. (See March 12, 1992 roll call on **HB 675** - Appendix.)

HB 675, as amended, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 675**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 581**, by Representative Deskins:

Amend printed copy of **HB 581** on page 1, after line 18, by adding the following new section:

"Section 2. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he ***is prohibited from purchasing a handgun in Kentucky by the Federal Gun Control Act of 1968, as amended, and has not been granted relief from disability by the Secretary of the Treasury of the United States, or is a nonresident of Kentucky, and*** he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban-county governments may carry concealed deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) A deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism.

(5) ***Any resident of Kentucky not enumerated in subsection (1) of this section may carry concealed deadly weapons on or about his person at all times within the Commonwealth of Kentucky.***"

(6)[~~(5)~~] Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony.

Orders of the Day (Continued)

HB 379, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of the Committee Substitute to **HB 379**. Agreed.

Representative Ridley moved that **HB 379**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 61, Nays 14. (See March 12, 1992 roll call on **HB 379** - Appendix.)

HB 379, by way of Committee Substitute, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 379**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 436, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Amendment No. 1 to **HB 436**. Agreed.

Representative Little moved that **HB 436**, as amended, be passed.

On the roll call the vote was: Yeas 62, Nays 18. (See March 12, 1992 roll call on **HB 436** - Appendix.)

HB 436, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 436**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 495, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved the adoption of the Committee Substitute to **HB 495**. Agreed.

Representative Reinhardt moved that **HB 495**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 83, Nays 5. (See March 12, 1992 roll call on **HB 495** - Appendix.)

HB 495, by way of Committee Substitute, was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HB 495**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement on **SB 216**, **HB 653** and **HB 933** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HR 196, by Representative Nelson: A RESOLUTION in honor of Ollie Mae Vincent upon the occasion of her one hundred second birthday.

HR 199, by Representative Richardson: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Nellie Clemons Stamper.

HR 201, by Representatives Moberly and Napier: A RESOLUTION commending Dr. Paul Blanchard and Dr. Glen Kliene for directing the Robert A. Taft Seminar for Teachers, Eastern Kentucky University for hosting the seminar, and the Robert A. Taft Institute of Government for sponsoring it.

HCR 202, by Representative Donnermeyer: A CONCURRENT RESOLUTION establishing a Task Force on Living Wills.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Cities: **SB 269**

Appropriations and Revenue: **HB 780**, **HB 653**, **HB 267**, **HB 410**, **HB 7**, **HB 28**, **HB 586**, **HB 15**

Labor and Industry: **HB 930**, **HB 937**, **HB 886**, **HB 836**, **HB 835**, **HB 814**, **HB 759**, **HB 720**, **HB 706**

Natural Resources and Environmental Protection: **SB 285**, **SB 287**, **SB 298**, **SB 318**, **HB 718**

Business Organizations and Professions: **SB 152**, **SB 250**, **SB 157**

Agriculture and Small Business: **HB 532**

Tourism Development and Energy: **SB 313**, **SB 323**

Report of Committees (Continued)

The Committee on Natural Resources and Environmental Protection reported **HB 729**, **HB 768**, with Committee Substitute attached thereto, **HB 839**, with Committee Amendment attached thereto, **SB 112**, **SB 144**, **SB 189**, **SB 190**, **SB 191** and **HB 58**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 729, AN ACT relating to water resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 151.700 TO 151.730 IS CREATED TO READ AS FOLLOWS:

(1) The authority may hire a full-time director who shall be qualified by training and experience to perform the duties of the authority and to carry out the purposes of KRS 151.700 to 151.730.

(2) The salary of the director shall be set by the authority.

(3) The directory shall, after review and approval of the authority, employ and fix the compensation of staff that may be necessary to carry out the purposes of KRS 151.700 to 151.730.

(4) The director shall, after review and approval of the authority, allocate the work and activities of the authority's staff.

Section 2. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered to:

(1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;

(2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise, or otherwise, the fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

(3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;

(4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45.360;

(5) Issue revenue bonds, in accordance with KRS 151.730, payable from fees collected from all facilities using water from the Kentucky River or its tributaries, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;

(6) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;

(7) Issue administrative regulations providing for clean water, which shall not be less stringent than the state and federal regulations for clean water;

(8) Exercise all other powers necessary to perform its public purpose ***to implement and enforce the plans developed by the authority pursuant to this section, and to enforce administrative regulations promulgated by the authority. The long range water resource plan and drought response plan shall be implemented for the basin upon the direction of the authority***;

(9) Develop comprehensive plans for the management of the Kentucky River within the basin, including a long-range water resource plan and a drought response plan. Each county within the basin shall develop a long-range water resource plan and submit it to the authority. The authority shall develop a unified long-range water resource plan for the basin. The authority shall conduct a public hearing on the plan, and submit its final unified plan for the basin to the Natural Resources and Environmental Protection Cabinet. The cabinet shall act upon the plan within six (6) months and shall approve the plan, unless it objects for good reason

shown. A drought response plan for the basin shall be developed by the authority, and this plan shall be implemented for the basin upon the direction of the authority [~~or the Governor~~];

(10) Develop and promote a plan for the protection and use of groundwater within the basin. Administrative regulations shall be issued implementing the plan, and these regulations shall not be less stringent than state and federal regulations protecting groundwater;

(11) Develop recreational areas within the basin. These recreational areas shall be operated and funded by the state Department of Parks, as specifically authorized or permitted within the biennial executive budget. There is hereby created the Kentucky River Park to be located as determined by the authority;

(12) The authority may utilize funds provided for recreational purposes within the biennial executive budget for major or minor maintenance if the authority certifies to the secretary of the Finance and Administration Cabinet that a significant need exists for such repairs and no other funds are available for such maintenance;

(13) Coordinate the Kentucky River basin water resources activities among state agencies;

(14) Report quarterly on all of its activities to the legislative Committee on Appropriations and Revenue; and

(15) Receive reports from state agencies on litigation concerning the Kentucky River, which agencies are hereby directed to report to the authority.

(16) Use fees collected from facilities using water from the Kentucky River or its tributaries, except those facilities using water previously for agricultural purposes, to employ personnel and fund the activities of the authority.

SECTION 3. A NEW SECTION OF KRS 151.700 TO 151.730 IS CREATED TO READ AS FOLLOWS:

(1) The authority or, upon the authority's request the cabinet's department of law, shall bring an action for the recovery of penalties provided for in this section or in KRS 151.990 or to bring an action for a restraining order, or a temporary or permanent injunction for the prevention or correction of a condition constituting or threatening to constitute a violation of the administrative regulations promulgated by the authority, the long-range water resource plan, or a drought response plan developed by the authority.

(2) All actions for penalties and injunctive relief for violations of the administrative regulations promulgated by the authority, the long range water resource plan, or a drought response plan developed by the authority shall be brought by the authority or, upon the authority's request by the cabinet's department of law, in the:

(a) Circuit Court having jurisdiction of the defendant;

(b) Circuit Court of the county in which the condition constituting or threatening to constitute a violation of the administrative regulations of the authority, the long range water resource plan or a drought response plan developed by the authority is occurring; or

(c) In the Franklin Circuit Court.

SECTION 4. A NEW SECTION OF SUBCHAPTER 70 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Permits issued by the cabinet pursuant to the provisions of KRS Chapters 151, 146, or 224 shall be consistent with the administrative regulations promulgated by the Kentucky River Authority, and the long-range water resource plan and drought response plans developed by the authority.

Section 5. KRS 151.990 is amended to read as follows:

(1) Any person, city, county or other governmental subdivision who violates KRS 151.100 to 151.460 shall be liable to a civil penalty of not more than $1,000 for said violation and in addition may be enjoined from continuing said violation. Each day upon which such violation occurs or continues shall constitute a separate offense.

(2) Any person who violates any determination, permit, administrative regulation, order, long range water resource plan, or drought response plan of the Kentucky River Authority shall be liable for a civil

penalty not to exceed the sum of one hundred dollars ($100) for each day during which the violation continues, and, in addition, may be concurrently enjoined from any violations as provided in Section 3 of this Act.

HB 768, AN ACT relating to government control of private property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) Neither the Commonwealth nor any public agency thereof, no county, urban-county, charter county, city, or agency thereof, no special district, municipal corporation, or agency thereof shall:

(a) Place development restrictions on private property unless the restrictions are justified for environmental or conservation reasons, or for the protection of wildlife, and unless the owner of the property is provided written notice of the restrictions and site specific documentation as to the need and justification for the restrictions. If the restrictions render the property useless for the benefit of the property owner, the imposition of the restrictions shall be considered a taking and the owner shall receive fair compensation; or

(b) Require the transfer of private property or any private property right as a condition for the issuance of a permit or license which is mandated or authorized under the police power or regulatory authority; or

(c) Receive the transfer of private property or a private property right without paying the private owner of the property or the property right fair compensation for the property or the property right. This subsection shall not apply to the completely voluntary transfer of property or a property right by donation by the property owner, but it shall apply in any instance where the donation is compelled by any means.

(2) Any action in violation of subsection (1) of this section shall be void and the plaintiff shall be entitled to treble damages, together with all costs of the action, from the defendant government or agency.

The Committee Substitute to **HB 768** is as follows:

HB 768, AN ACT relating to government control of private property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 381 IS CREATED TO READ AS FOLLOWS:

(1) Neither the Commonwealth nor any public agency thereof, nor any county, urban-county, charter county, city, or agency thereof, nor any special district, municipal corporation, or agency thereof shall place development restrictions on private property based upon environmental or conservation reasons, or for the protection of wildlife, without first providing public notice of the extent and basis of the restrictions. The notice shall be published in the newspaper with the largest circulation in every county where the restriction may affect private property development.

(2) Upon receipt of a written request from the property owner, the regulatory authority shall provide a written notice to the landowner of those environmental or conservation or protection of wildlife restrictions which may affect development of the owner's property. This notice shall include site specific documentation and justification for the restrictions. This notice shall be provided within sixty (60) calendar days of receipt of the request.

(3) Development restrictions on private property shall become effective only when those restrictions are authorized by statute, including, but not limited to, KRS Chapter 100, or administrative regulations which have been promulgated pursuant to KRS Chapter 13A.

(4) The requirement to transfer private property or property rights to public ownership as a condition for the issuance of a permit or license which is mandated or authorized under police power or regulatory authority is prohibited.

(5) The transfer or receipt of private property or private property rights without paying the private owner of the property fair compensation is prohibited unless it can be demonstrated that the transfer or receipt is completely voluntary and not connected with the issuance of a permit or license.

(6) Should the restrictions imposed by a regulatory authority render the property useless for the benefit or use of the property owner, the imposition of the restrictions shall be considered a taking and the owner shall receive fair compensation.

(7) Any willful disregard for subsection (3), (4), or (5) which result in damages shall entitle the plaintiff to damages, together with all cost of the action. Any transfer of private property or property rights which is the result of permit or license requirements shall be void.

HB 839, AN ACT relating to solid waste disposal facilities and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The financial mechanisms used to demonstrate financial assurance for a solid waste disposal facility shall ensure that funds necessary to meet the costs of closure and post-closure care shall be available when they are needed. In addition to a surety bond, letter of credit, or other sureties satisfactory to the cabinet, an owner or operator may meet the requirements for financial assurance by establishing a closure or post-closure trust fund which conforms to the requirements of this section. The trustee of the fund shall be an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency. A copy of the trust agreement shall be submitted to the cabinet.

(2) Payments to the trust fund shall be made annually by the owner or operator over the term of the initial permit for a new facility or over the remaining operating life of a facility as estimated in the closure plan, whichever period is shorter. This period shall be referred to as the pay-in period.

(3) The first payment into the trust fund shall be at least equal to the current cost estimate for closure or post-closure care, divided by the number of years in the pay-in period.

(4) Subsequent payments shall be made no later than thirty (30) days after each anniversary date of the first payment. The amount of each subsequent payment shall be determined by the following formula:

$$\text{Next Payment} = (CE-CV)/Y$$

CE is the current cost estimate for closure or post-closure care, updated for inflation or other changes; CV is the current value of the trust fund; and Y is the number of years remaining in the pay-in period.

(5) The initial payment into the trust fund for a new facility shall be made before the initial receipt of waste. If an owner or operator establishes a trust fund after having used one (1) or more alternative mechanisms to establish financial assurance for an existing facility, the first payment into the trust fund shall be at least the amount that the fund would contain if the trust fund had been established initially and annual payments made according to this section.

(6) An owner or operator, or any other person authorized to conduct closure or post-closure care, may request reimbursement from the trustee for closure or post-closure expenditures by submitting documentation of the costs to the cabinet. A request for reimbursement shall be granted only if sufficient funds remain in the trust fund to cover the remaining cost of closure or post-closure care. Within sixty (60) days after receiving a request for reimbursement and cost documentation for closure or post-closure care activities, the cabinet shall instruct the trustee to make reimbursements in those amounts as the cabinet specifies in writing, if the cabinet determines that the expenditures are in accordance with the approved closure or post-closure plan. If the cabinet denies a request for reimbursement, it shall provide the owner or operator with a detailed written statement of reasons.

(7) An owner or operator may use one (1) or more mechanisms simultaneously for establishing financial assurance, including a trust fund. The trust fund may be terminated and moneys returned to the operator only if the owner or operator substitutes alternate financial assurance as allowed under this chapter or is no longer required to demonstrate financial responsibility in accordance with the requirements of this chapter.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

An existing solid waste disposal facility which meets, or met at the time of construction and was issued an operating permit for, a design standard of at least twelve (12) inches of soil with a maximum permeability of one (1) times ten (10) to the negative seventh power centimeters per second or its equivalent, has a leachate collection system installed in a manner approved by the cabinet, and has a groundwater monitoring system approved by the cabinet, shall be allowed to operate until October 8, 1993, under the post-closure requirements in effect on May 8, 1990, for solid waste disposal facilities which must close before June 30, 1992.

Section 3. Whereas, dramatically increased financial assurance requirements for solid waste disposal facilities will become effective July 1, 1992, and the mechanisms established by this Act are intended to address those requirements, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee Amendment No. 1 to **HB 839** is as follows:

Amend printed copy of **HB 839** on page 3, delete lines 24 through 26 in their entirety; and

On page 4, delete lines 1 through 11 in their entirety; and

On page 4, line 12, change "Section 3." to "Section 2."

SB 112, AN ACT relating to water conservation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.110 is amended to read as follows:

(1) ***(a)*** The conservation, development, and proper use of the water resources of the Commonwealth of Kentucky have become of vital importance as a result of population expansion and concentration, industrial growth, technological advances and an ever increasing demand for water for varied domestic, industrial, municipal, and recreational uses. It is recognized by the General Assembly that excessive rainfall during certain seasons of the year causes damage from overflowing streams. However, prolonged droughts at other seasons curtail industrial, municipal, agricultural, and recreational uses of water and seriously threaten the continued growth and economic well-being of the Commonwealth. The advancement of the safety, happiness, and welfare of the people and the protection of property require that the power inherent in the people be utilized to promote and to regulate the conservation, development, and most beneficial use of the water resources. It is hereby declared that the general welfare requires that the water resources of the Commonwealth be put to the beneficial use to the fullest extent of which they are capable, that the waste or nonbeneficial use of water be prevented, and that the conservation and beneficial use of water be exercised in the interest of the people. Therefore, it is declared the policy of the Commonwealth to actively encourage and to provide financial, technical, or other support for projects that will control and store our water resources in order that the continued growth and development of the Commonwealth might be assured. To that end, it is declared to be the purpose of KRS Chapters 146, 149, 151, 224, 262, and KRS 350.029 and 433.750 to 433.757 for the Commonwealth to permit, regulate, and participate in the construction or financing of facilities to store surplus surface water for future use; to conserve and develop the ground water resources of the Commonwealth; to require local communities to develop long range water supply plans; to protect the rights of all persons equitably and reasonably interested in the use and availability of water; to prohibit the pollution of water resources and to maintain the normal flow of all streams so that the proper quantity and quality of water will be available at all times to the people of the Commonwealth; to provide for the adequate disposition of water among the people of the Commonwealth entitled to its use during severe droughts or times of emergency; to prevent harmful overflows and flooding; to regulate the construction, maintenance, and operation of all dams and other barriers of streams; to prevent the obstruction of streams and floodways by the dumping of substances therein; to keep accurate records on the amount of water withdrawal from streams and watercourses and reasonably regulate the amount of withdrawal of public water; and to engage in other activities as may be necessary to conserve and develop the water resources of the Commonwealth of Kentucky, and to ensure adequate supply of water for domestic, agricultural, recreational, and economic development uses.

(b) The cabinet shall:

1. Provide leadership in water use efficiency for all water uses;

2. Promote conservation;

3. Offer technical assistance and conduct research;

4. Be the lead agency with other state and local agencies to incorporate conservation measures and incentives into their programs;

5. Sponsor "technology transfer sessions" on water conservation to commercial and industrial operations; and

6. Provide leadership to communities looking for information and methods for coping with the issues of growth and water supply.

(2) It is a finding of the General Assembly that groundwater is an important but vulnerable natural resource of this state, that the majority of rural Kentuckians rely exclusively on groundwater for drinking, and that groundwater is inextricably linked to surface waters which may also serve as a drinking water resource. It is also a finding that groundwater is a resource equally vital for agricultural, commercial, and industrial purposes and that useable groundwater is critical to the future development of these industries. Therefore, it shall be the policy of this state to manage groundwater for the health, welfare, and economic prosperity of all citizens.

SB 144, AN ACT relating to asbestos control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.20-300 is amended to read as follows:

For the purpose of adopting the Asbestos Hazard Emergency Response Act, called AHERA, [~~of 1986,~~] Public Law (99-519), ***as amended,*** the Department of Environmental Protection, Division ***for*** [~~of~~] Air Quality, may develop, adopt, and maintain a comprehensive statewide asbestos ***assessment and response program and an*** [~~contractor~~] accreditation program that shall replicate the federal environmental protection agency model plan issued April 30, 1987 ***and the provisions of Title 40 of the Code of Federal Regulations, Part 763, Subpart E***. The ***programs*** [~~program~~] shall include but not be limited to:

(1) Identifying and controlling asbestos hazards in public and private schools, grades K-12;

(2) Providing for [~~training and~~] accreditation of asbestos inspectors, management planners, abatement project designers, abatement contractors, supervisors, and abatement workers; [~~and~~]

(3) ***Reviewing training courses to determine if they are approvable under the criteria established in the April 30, 1987 model plan and any other criteria adopted by the Division for Air Quality; and***

(4) Reviewing school asbestos management plans and inspecting school buildings for compliance with this section [~~Accommodating inspection of schools for asbestos hazards, and the development and review of schools' asbestos management plans~~].

Section 2. KRS 224.20-310 is amended to read as follows:

The cabinet may charge a fee necessary to recover all costs incurred by the implementation and operation of the ***asbestos programs*** [~~accreditation program~~] required under KRS 224.20-300.

Section 3. KRS 224.99-010 is amended to read as follows:

(1) Any person who violates KRS 224.10-110(2) or (3), KRS 224.70-110, 224.73-120, 224.20-110, 224.46-580, 224.01-400, or who fails to perform any duties imposed by these sections, or who violates any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.99-020.

(2) Any person who violates subsections (4) or (5) of KRS 224.10-110, or KRS 224.40-100, 224.40-305, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of five thousand dollars ($5,000) for said violation and an additional civil penalty not to exceed five thousand dollars ($5,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.99-020.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or by imprisonment for a term of not more than one (1) year, or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) Any person who knowingly violates KRS 224.70-110, 224.73-120, 224.40-100, 224.20-110, 224.40-305, or KRS 224.10-110(2) or (3), or any determination, permit, administrative regulation, or order of the cabinet promulgated pursuant to those sections which have become final, or who knowingly provides false information in any document filed or required to be maintained under this chapter, or who knowingly renders inaccurate any monitoring device or method, or who tampers with a water supply, water purification plant, or water distribution system so as to knowingly endanger human life, shall be guilty of a Class D felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000), or by imprisonment for a term of not less than one (1) year and not more than five (5) years, or by both fine and imprisonment, for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5) If any person engages in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter, or fails to provide information or to meet reporting requirements required by terms and conditions of a permit or administrative regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of this chapter or contrary to a permit, order, or administrative regulation issued or promulgated under this chapter, or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a felony, and upon conviction thereof, shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.99-020.

(9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the Attorney General on its behalf for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse, or household waste materials in any litter receptacle, except with permission of the owner of such receptacle, or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates ***KRS 224.20-300, 224.20-310, any other provision of this chapter, or any determination, permit, administrative regulation or order of the cabinet relating to the Asbestos Hazard Emergency Response Act of 1986 (AHERA), Public Law 99-519, as amended*** [~~a provision of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools~~] shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to ***AHERA*** [~~accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools~~].

(13) A violation of KRS 224.50-413 shall be subject to a fifty dollar ($50) fine for each day the violation continues.

SB 189, AN ACT relating to small coal operators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.260 is amended to read as follows:

There is hereby created a Small Coal Operators Advisory Council which shall report directly to the secretary of the Governor's Executive Cabinet. The council shall advise on matters affecting coal production and utilization including coal market development, transportation and storage problems. The council shall have the function of coordinating and improving the working relationships between those state agencies administering programs which regulate, serve, or aid small coal mine operators. The council shall consist of fifteen (15) members. Ten (10) of those members shall be appointed by the Governor. Seven (7) of the ten (10) members shall be full-time operators producing ***three*** [~~two~~] hundred thousand ***(300,000)*** [~~(200,000)~~] or fewer tons of coal per year. Three (3) of the ten (10) appointees shall be with backgrounds in one (1) or more of the following areas: transportation, marketing, mining education, and mining engineering. The secretaries of the Natural Resources and Environmental Protection Cabinet, the Cabinet for Economic Development, and the commissioners of the Agriculture and Mines and Minerals Departments and the special assistant to the Governor for coal and energy policy shall be ex officio members. Each individual appointment shall be for a four (4) year term which shall begin on July 15, 1984. Members may serve successive terms if reappointed. Vacancies shall be filled in a manner consistent with the provisions for initial appointments. At the first meeting held on or after July 1 of each year, a chairman shall be elected by and from the membership. The council shall meet at least quarterly during each year and may meet more often at the call of the chairman. The council shall be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes. Council members shall be eligible for reimbursement by the cabinet for actual expenses directly related to serving on the council.

Section 2. KRS 350.450 is amended to read as follows:

(1) If the area proposed to be mined contains prime farmland as defined in Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977," then no permit shall be issued unless it complies with Section 510(d)(1) therein. Nothing in this subsection shall apply to any permit issued prior to August 3, 1977, or to any revisions or renewals thereof, or to any existing surface coal mining operations for which a permit was issued prior to August 3, 1977. Nothing herein shall be construed as authorizing the cabinet to promulgate regulations more stringent than those promulgated pursuant to PL 95-87 relating to prime farmland.

(2) Where a surface coal mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining, the operation shall comply with the requirements of paragraphs (c) and (d) of this subsection without regard to the requirements of KRS 350.410 or 350.445(2) and (3) with respect to lands from which overburden and the coal seam being mined have not been removed; provided, however, the cabinet shall establish internal procedures pursuant to which it shall permit surface coal mining operations for the purposes set forth in paragraph (b) of this subsection.

(a) Where an applicant meets the requirements of paragraphs (b) and (c) of this subsection a permit without regard to the requirements to restore to approximate original contour set forth in KRS 350.410 or 350.445(2) and (3) may be granted for the surface coal mining operations where the mining operation will remove an entire coal seam or seams running through the upper fraction of a mountain, ridge, or hill, except as provided in paragraph (c)1. of this subsection, by removing all of the overburden and creating a level plateau or a gently rolling contour with no highwalls remaining and capable of supporting postmining uses in accord with the requirements of this subsection.

(b) In cases where an industrial, commercial, agricultural, residential, or public facility (including recreational facilities) use is proposed for the postmining use of the affected land, the cabinet may grant a permit for a surface coal mining operation of the nature described in paragraph (a) of this subsection where:

1. After consultation with the appropriate land use planning agencies, if any, the proposed postmining land use is deemed by the cabinet to constitute an equal or better economic or public use of the affected land as compared with premining use;

2. The applicant presents specific plans for the proposed postmining land use and appropriate assurances that the land use will be:

a. Compatible with adjacent land uses;

b. Obtainable according to data regarding expected need and market;

c. Assured of investment in necessary public facilities;

d. Supported by commitments from public agencies where appropriate;

e. Practicable with respect to private financial capability for completion of the proposed use;

f. Planned pursuant to a schedule attached to the reclamation plan so as to integrate the mining operation and reclamation with the postmining land use; and

g. Designed by a registered engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site;

3. The proposed use would be consistent with adjacent land uses and existing state and local land use plans;

4. The cabinet provides the governing body of the unit of general-purpose government in which the land is located, and any state or federal agency which the cabinet in its discretion determines to have an interest in the proposed use, an opportunity of not more than thirty (30) days to review and comment on the proposed use; and

5. All other requirements of this chapter will be met.

(c) In granting any permit pursuant to this subsection the following requirements apply:

1. The toe of the lowest coal seam and the overburden associated with it are retained in place as a barrier to slides and erosion;

2. The reclaimed area is stable;

3. The resulting plateau or rolling contour drains inward from the outslopes except at specified points;

4. No damage will be done to natural watercourses;

5. Spoil will be placed on the mountaintop bench as is necessary to achieve the planned postmining land use; provided, that all excess spoil material not retained on the mountaintop shall be placed in accordance with the provisions of KRS 350.440; and

6. Insure stability of the spoil retained on the mountaintop and meet the other requirements of this chapter.

(d) The regulatory authority shall promulgate specific regulations to govern the granting of permits in accord with the provisions of this subsection.

(e) All permits granted under the provisions of this subsection shall be reviewed not more than three (3) years from the date of issuance of the permit, unless the applicant affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the approved schedule and reclamation plan.

(3) (a) The cabinet shall adopt procedures pursuant to which it may permit variances from the requirements of KRS 350.410 for the purposes set forth in paragraph (c) of this subsection, provided that the watershed control of the area is improved, and further provided, complete backfilling with spoil material shall be required to cover completely the highwall, which material will maintain stability following mining and reclamation.

(b) Where an applicant meets the requirements of paragraphs (c) and (d) of this subsection, a variance from the requirement to restore the approximate original contour set forth in KRS 350.410 and 350.445(2) may be granted for surface coal mining operations where the owner of the surface knowingly requests in writing, as a part of the permit application, that such a variance be granted so as to render the land, after reclamation, suitable for an industrial, commercial, residential, or public use, including recreational facilities.

(c) After consultation with the appropriate land use planning agencies, if any, the potential use of the affected land shall:

1. Be deemed by the cabinet to constitute an equal or better economic or public use;

2. Be designed and certified by a qualified registered professional engineer in conformance with professional standards established to assure the stability, drainage, and configuration necessary for the intended use of the site; and

3. The watershed of the affected land be deemed by the cabinet to be improved.

(d) In granting a variance pursuant to paragraph (b) of this subsection, the cabinet shall require that only ***the*** [~~such~~] amount of spoil will be placed off the mine bench ***that*** [~~as~~] is necessary to achieve the planned postmining land use, insure stability of the spoil retained on the bench, meet all other requirements of this chapter, and require all spoil placement off the mine bench to comply with KRS 350.440.

(e) The cabinet shall promulgate specific regulations as it deems necessary, if any, to govern the granting of variances in accord with the provisions of this subsection and may impose [~~such~~] additional requirements [~~as~~] it deems to be necessary.

(f) All exceptions granted under the provisions of this subsection shall be reviewed not more than three (3) years from the date of issuance of the permit, unless the permittee affirmatively demonstrates that the proposed development is proceeding in accordance with the terms of the reclamation plan.

(4) The cabinet shall adopt programs, regulations, and procedures designed to provide technical assistance to assist the small coal operator with the permitting and environmental protection performance standards for surface coal mining operations within the Commonwealth. ***The*** [~~Such~~] programs shall be directed towards eliminating delays in the processing of permits by establishing a special administrative program to review small operator's permit applications and by establishing a procedure for providing the small operator the technical services of public and private agencies in addition to the services provided pursuant to KRS 350.465(2)(f) necessary for completing the permit application. Specifically, notwithstanding any other provision of this chapter or regulations adopted pursuant thereto, for the purpose of this program, the cabinet shall:

(a) Develop a simplified small operator permit application. The cabinet shall notify all applicants of deficiencies in the form of the application by certified mail within ten (10) working days after the filing in the regional office. The applicant shall have ten (10) working days after the receipt of the notification to repair the deficiencies. Upon failure of the applicant to repair the deficiencies within ten (10) working days after receipt of the notification, the cabinet may return the application as incomplete.

(b) Provide in the abandoned mine land program for small operators, having mined coal under a state permit or license at any time within the previous three (3) years, participation consisting at least of the following:

1. That lands acquired or reclaimed by the state containing coal, coal refuse or other marketable minerals which should be removed in order to maximize the utilization, recoverability or conservation of solid fuel resources or to protect against adverse water quality impacts and which, once reclaimed, cannot be disturbed again by mining, shall be reclaimed by small operators unless the cabinet determines, after advertisement and advance opportunity to bid, that the reclamation project cannot be performed by the small operator bidders;

2. That the cabinet shall establish procedures for maximizing participation by small operators in all reclamation projects including:

a. Designing and establishing project specifications and setting forth in the annual request for federal funding under the state reclamation plan not less than twenty percent (20%) of ***the*** [~~said~~] projects on cost basis to be performed by small operators;

b. Advance advertising, soliciting, evaluating bids, and awarding contracts on all state reclamation projects for small operators.

3. In the event no bids are submitted by small operators for small operator projects, ***the*** [~~said~~] projects will be thereafter open for public bidding and no longer designated as small operator projects but shall satisfy that portion of the twenty percent (20%) set aside.

(c) For the purposes of this subsection, a small coal operator is one who is anticipated to mine less than ***three*** [~~two~~] hundred thousand ***(300,000)*** [~~(200,000)~~] tons per year, and the cabinet in determining tonnage for qualification shall consider all production from common ownership of other corporations or operations.

(d) Upon written notification by the small coal operator to the cabinet stating that no more mining will take place under a permit, the cabinet shall release a portion of the bond in accordance with KRS 350.070. In making its determinations pursuant to KRS 350.070 the cabinet shall:

1. Determine the percentage of the permitted acreage in the area of reduction in relation to the initial acreage of the permit;

2. Examine the land which has been disturbed and estimate the cost of reclamation;

3. When the estimated cost of reclamation does not exceed ten thousand dollars ($10,000) then the cabinet shall return all bond money in excess of the ten thousand dollars ($10,000);

4. When the estimated cost of reclamation exceeds ten thousand dollars ($10,000) the cabinet shall retain the amount estimated and shall return all bond money in excess of the estimated amount but in no case shall the cabinet return more than the amount determined by multiplying the percentage determined under subparagraph 1. of this paragraph times the original total bond amount.

Section 3. KRS 350.705 is amended to read as follows:

(1) There is hereby created a bond pool commission which shall consist of seven (7) members. One (1) member shall be the chairman of the small coal operators advisory council as established pursuant to KRS 350.260. The other six (6) members of the commission shall be appointed by the Governor as follows:

(a) One (1) member of the commission shall be a member, other than chairman, of the small coal operators advisory council;

(b) ***Two (2)*** [~~One (1)~~] of the members shall be ***operators*** [~~an operator~~] of surface coal mining operations producing ***three*** [~~one~~] hundred thousand ***(300,000)*** [~~(100,000)~~] or fewer tons of coal per year;

(c) [~~One (1) of the members shall be an operator of surface coal mining operations producing two hundred thousand (200,000) or fewer tons of coal per year;~~

~~(d)~~] One (1) member shall be an operator of surface coal mining operations producing more than ***three*** [~~two~~] hundred thousand ***(300,000)*** [~~(200,000)~~] tons of coal per year;

(d)[~~(e)~~] One (1) member shall be a certified public accountant; and

(e)[~~(f)~~] One (1) member shall be the secretary of the cabinet or his designee.

(2) (a) The chairman of the small coal operators advisory council shall serve on the commission for so long as he is chairman of the council. The governor shall initially appoint the other six (6) members as follows: two (2) members for a term of two (2) years; two (2) members for a term of three (3) years; and two (2) members for a term of four (4) years, beginning September 1, 1986. Subsequent appointments shall be made by the governor for terms of four (4) years. Members may serve successive terms if reappointed; and

(b) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term by the Governor.

(3) The commission shall adopt bylaws by which it shall elect a chairman and vice-chairman and establish procedures for conduct of meetings.

(4) The official domicile of the commission shall be Franklin County. All actions of the commission shall be considered to occur in Franklin County.

(5) The commission shall meet no less than once a month during the first year beginning September 1, 1986. Commencing with the second year, the commission shall meet no less than once every three (3) months. Four (4) members of the commission shall constitute a quorum at any meeting.

(6) Each commission member, except the cabinet representative, shall receive fifty dollars ($50) per diem for each meeting attended. Except for the cabinet representative, members of the commission shall also be reimbursed for actual and necessary expenses directly related to meetings of the commission.

(7) If a member of the commission fails to attend four (4) consecutive meetings, the position shall be considered to be vacated, and the governor, after receiving notice of the vacancy from the commission, shall immediately appoint a qualified person to serve the remainder of the term.

(8) Any member of the commission having any direct or indirect financial interest or any other conflict of interest with respect to a permittee applying for membership in the bond pool, a bond pool member applying for a rating revision, or a bond pool member whose membership is being evaluated or revoked, shall not participate in any discussion or vote concerning membership or rating of that permittee or member.

(9) There shall be no liability on the part of, and no cause of action of any nature shall arise against, the commission, the bond pool administrator, or their agents or employees for any action taken in the performance of their powers and duties under KRS 350.595 and 350.700 to 350.755.

SB 190, AN ACT relating to the extraction of coal.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; ***the extraction of twenty-five (25) to two hundred fifty (250) tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncomercial use or noncommercial distribution;*** the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) “Method of operation” means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) “Operator” means any person, partnership, or corporation engaged in surface coal mining and reclamation operations;

(9) “Person” means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other busirganization;

(10) “Cabinet” means the Natural Resources and Environmental Protection Cabinet;

(11) “Secretary” means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) “Reclamation” means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) “Degree” when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) “Bench” means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) [~~“Fill bench” means that portion of the bench which is formed by depositing overburden beyond the cut section;~~

~~(16)~~] “Approximate original contour” means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16)[~~(17)~~] “Certification” by a qualified registered professional engineer, as required by this chapter and regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer’s employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17)[~~(18)~~] “Reclamation development fund” means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land.

(18)[~~(19)~~] “Reclamation development project” means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.010(9).

(19)[~~(20)~~] “Reclamation development plan” means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

Section 2. KRS 350.130 is amended to read as follows:

(1) When any of the requirements of this chapter or administrative regulations adopted pursuant thereto or the orders of the cabinet have not been complied with, the cabinet shall forthwith cause a notice of noncompliance to be issued upon the person or operator. The cabinet shall set forth in its notice a reasonable time period but not more than ninety (90) days for the abatement of the violation. If any person or operator has not abated the violation within the time prescribed in the notice of noncompliance, the secretary or other authorized personnel of the cabinet shall issue to ***the*** [~~said~~] operator or person an order for immediate compliance and cessation of any mining activities or operations which are contributing to the violation. ***The*** [~~Such~~] order shall require the person or operator to abate the violation in the most expeditious manner possible. The secretary is authorized to promulgate reasonable administrative regulations for the implementation of this section. ***The*** [~~Such~~] notice or order shall be handed to the person in charge of the operation, and the operator or person engaged in coal exploration operations or sent by certified mail, return receipt requested, addressed to the permanent address shown on the application for a permit or if no address is shown on the application, then

to the address known to the cabinet. The notice of noncompliance or order for immediate compliance and cessation shall specify in what respects the person or operator has failed to comply with this chapter or the regulations or orders of the cabinet and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. If the person or operator has not reached an agreement with the cabinet or has not complied with the requirements set forth in the notice of noncompliance or order for immediate compliance and cessation within time limits set therein, the permit may be revoked or the operation terminated, after an opportunity for a hearing, by order of the cabinet and the performance bond, if any, shall then be forfeited to the cabinet, [~~except as provided in subsection (2) of this section,~~] provided that failure to attend a hearing shall be excused for good cause shown. Any bonding company or financial institution providing bond to the cabinet shall have the right to perform those measures necessary to secure bond releases if ***the*** [~~said~~] bonding company or financial institution can demonstrate that it has the ability to perform ***the*** [~~said~~] measures and will undertake to do so within a reasonable time frame. Neither the surety company nor the financial institution may employ anyone to perform ***the*** [~~said~~] measures who has been barred from mining pursuant to the provisions of this chapter.

(2) When a bond is forfeited consistent with the provisions of this chapter, the cabinet shall forfeit the entire amount of the bond for the permit area or increment.

(3) An operator or person whose mining permit or operation has been revoked, suspended, or terminated or is at the time of the application in violation of this chapter or other applicable requirements as set forth in KRS 350.085 shall not be eligible to receive another permit or begin another operation or to have suspended permits or operations reinstated until he shall have complied with all the requirements of this chapter or submitted proof satisfactory to the cabinet under KRS 350.085 that ***the*** [~~such~~] violation has been corrected or is in the process of being corrected in respect to all permits issued him, provided, further, that no operator or person shall be eligible to receive another permit or begin another operation who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the operator or person has paid such sum as the cabinet finds is adequate to reclaim ***the*** [~~such~~] lands. The cabinet shall not issue any permits to or allow future operations by any operator or person who has demonstrated a pattern of willful violations of this chapter of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter, provided that no permit shall be denied on this basis without an opportunity for a hearing. The secretary shall promulgate regulations which implement this section. For the purposes of this section, if a corporate permittee has demonstrated a pattern of willful violations, then any subsequent application for a permit by that corporation, or any person who controls or has controlled that corporation, shall be denied.

(4) In the exercise of the secretary's enforcement powers and authority under this chapter, the secretary, or an authorized representative of the cabinet, after inspection shall immediately order the cessation of ***a*** [~~such~~] condition or operation when he determines that the condition or operation creates an imminent danger to the health or safety of the public or that the condition or operation is causing or can reasonably be expected to cause significant imminent environmental harm in violation of this chapter or the regulations pursuant to this chapter, or any permit condition. For purposes of this subsection, "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before ***the*** [~~such~~] condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(5) Each provision of this section shall be interpreted and applied consistently with due process of law.

(6) The secretary, or authorized representatives of the cabinet, shall have the power to vacate, amend, modify, or terminate notices of noncompliance and cessation orders, pursuant to administrative regulations promulgated by the cabinet.

Section 3. KRS 350.990 is amended to read as follows:

(1) Any person or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided in this chapter, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for the violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which the violation continues, and in addition, may be enjoined from continuing the violations provided in this section. Any operator or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period

prescribed for the abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which the violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of the method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Department of Law. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the State Treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in the bond pool fund for purposes set forth in KRS 350.595 and 350.700 to 350.755. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the bond pool fund.

(2) Any person who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who engages in other mining operations, without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing the violations. Each day shall constitute a separate violation. In addition to the foregoing penalties, any person or operator who fails to abate a violation of KRS 350.060 or KRS 350.029 or KRS 350.057, as noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement, shall be assessed an additional civil penalty of not less than seven hundred and fifty dollars ($750) for each day during which the violation continues. However, the penalties provided in subsection (1) of this section shall apply in lieu of the penalties provided in this subsection where an operator through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) The cabinet's Department of Law shall bring an action for the recovery of penalties and bring an action for a restraining order, temporary or permanent injunction, against any operator or person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders, and administrative regulations of the cabinet promulgated pursuant thereto.

(4) Any person who knowingly and willfully violates any of the provisions of this chapter, except as provided in subsection (5) of this section, or any determination or order promulgated pursuant to the sections of this chapter which have become final, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which the violation occurs may constitute a separate offense.

(5) (a) Any person who, in violation of KRS 350.060(1)(a) willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person who willfully and knowingly engages in other mining operations without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, with the intent to violate the laws, shall be guilty of a Class D felony and upon conviction shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(b) Any person who in violation of KRS 350.060(1)(b) willfully and knowingly receives, transports, sells, conveys, transfers, trades, exchanges, donates, purchases, delivers, or in any way derives benefit from coal removed from any surface mining operations conducted in violation of KRS 350.060(1)(a) or 350.057 shall be guilty of a Class D felony and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a misdemeanor and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any person who willfully and knowingly resists, prevents, impedes, or interferes with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) When a corporate permittee violates any provision of this chapter or administrative regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

(11) The cabinet, upon written request by any person or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet Division of Abandoned Lands shall have the authority to approve proposed in-kind projects and to recommend projects to the cabinet, and shall determine whether the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person or operator for the full amount of the assessed penalty. The cabinet may prepare and promulgate administrative regulations as are necessary to implement and administer the provisions of this subsection.

Section 4. The following KRS section is repealed:

350.0281 Moratorium on regulations — Exceptions.

SB 191, AN ACT relating to abandoned coal mines.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.550 is amended to read as follows:

(1) There is hereby created within the Commonwealth of Kentucky an abandoned mine lands program, to be administered within the Natural Resources and Environmental Protection Cabinet. The secretary of the Natural Resources and Environmental Protection Cabinet ***may*** [~~is authorized to~~] promulgate regulations necessary to implement this program. The provisions of KRS 350.150, 350.152, 350.154, 350.156(1) and (2), 350.158, 350.161, and 350.163 shall not be applicable to this program.

(2) The Finance and Administration Cabinet is hereby directed to establish a fund to be known as the abandoned mine reclamation fund (hereinafter referred to as the "fund").

(3) The fund shall consist of amounts deposited in the fund from time to time, including but not limited to:

(a) The reclamation fees levied pursuant to section 402 of P.L. 95-87 and allocated to the Commonwealth of Kentucky;

(b) Any income derived from or any user charge imposed on or for land reclaimed pursuant to the abandoned mine lands program after the expenses of the program have been deducted;

(c) Donations by persons, corporations, associations, governmental entities, and foundations for the purposes of the abandoned mine lands program; [~~and~~]

(d) ***Interest credited to the fund pursuant to Section 401(e) of P.L. 95-87 and allocated to the Commonwealth of Kentucky; and***

(e) All other moneys as provided for consistent with this chapter.

(4) Moneys in the fund may be used for the following purposes:

(a) Reclamation and restoration of land and water resources adversely affected by past coal mining, including but not limited to reclamation and restoration of abandoned surface mine areas, abandoned coal processing areas, and abandoned coal refuse disposal areas; sealing and filling of abandoned deep mine entries and voids; planting of land adversely affected by past coal mining to prevent erosion and sedimentation; prevention, abatement, treatment, and control of water pollution created by coal mine drainage, including restoration of stream beds, and construction and operation of water treatment plants; prevention, abatement, and control of burning coal refuse disposal areas and burning coal in situ; and prevention, abatement, and control of coal mine subsidence;

(b) Acquisition and filling of voids and sealing of tunnels, shafts, and entryways;

(c) Acquisition of land as provided for in this chapter;

(d) Studies by state agencies, by contract with public and private organizations to provide information, advice, and technical assistance, including research and demonstration projects, conducted for the purposes of this program;

(e) Restoration, reclamation, abatement, control, or prevention of adverse effects of coal mining which constitute an emergency as provided for in this program;

(f) Administrative expenses of the program to accomplish the purposes of this program; [~~and~~]

(g) ***For the purposes of Section 507(c) of P.L. 95-87; and***

(h) All other necessary expenses to accomplish the purposes of this program.

Section 2. KRS 350.560 is amended to read as follows:

(1) Lands and water eligible for reclamation or drainage abatement expenditures under the abandoned mine lands program are those which were mined for coal or which were affected by ***coal*** [~~such~~] mining, wastebanks, coal processing, or other coal mining processes, and were abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under the provisions of this chapter.

(2) If the cabinet determines that the reclamation priority, under the priorities of KRS 350.555(1) and (2), of a site is the same or more urgent than the priority of sites under subsection (1) of this section, the following sites shall also be eligible for reclamation or drainage abatement expenditures:

(a) Unreclaimed sites which were mined for coal or which were affected by coal mining, waste banks, coal processing, or other mining processes and left in an inadequate reclamation status during the period beginning August 4, 1977 and ending May 18, 1982, for which the bond, or other form of financial guarantee, was insufficient to provide adequate reclamation or abatement of the site; or

(b) Unreclaimed sites which were mined for coal or which were affected by coal mining, waste banks, coal processing, or other coal mining processes and left in an inadequate reclamation status during the period beginning on August 4, 1977 and ending on or before November 5, 1990, where the surety for the permittee became insolvent during the period, and as of November 5, 1990, funds immediately available from proceedings relating to the insolvency, or from other sources have been insufficient to provide for adequate reclamation and abatement at the site.

(3) Sites under subsection (2) in the immediate vicinity of a residential area or which have an adverse economic impact upon a local community shall be given priority.

(4) Up to thirty percent (30%) of the funds allocated to the Commonwealth through annual grants from the Secretary of the Interior may be expended for the purposes of protecting, repairing, replacing, constructing, or enhancing facilities relating to water supply, including water distribution facilities and treatment plants, to replace water supplies adversely affected by coal mining practices. If the adverse effect on water supplies referred to in this subsection occurred both prior to and after August 3, 1977, subsection (1) and (2), above, shall not be construed to prohibit use of funds for the purposes of this subsection, if the adverse effects occurred predominantly prior to August 3, 1977.

(5) Where the Governor has made a certification under Section 3 of this Act and the Secretary of the Interior has concurred in the certification, the reclamation categories of subsection (2) of Section 3 of this Act shall take effect, supplanting the categories of subsections (1), (2), and (4) above.

SECTION 3. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) The Governor may certify to the Secretary of the Interior that all of the priorities stated in Section 403(a) of P.L. 95-87 and KRS 350.555 for eligible lands and waters pursuant to Section 404 of P.L. 95-87 and KRS 350.560(1), (2), and (3) have been achieved.

(2) If the Secretary of the Interior concurs with the Governor's certification under subsection (1), for purposes of determining the eligibility of lands and waters for annual grants under KRS 350.550(3), KRS 350.560(1), (2), and (3) shall not apply. Rather, eligible lands, waters, and facilities shall be those:

(a) Which were mined or processed for minerals or which were affected by the mining or processing, and abandoned or left in inadequate reclamation status prior to August 3, 1977; and

(b) For which there is no continuing responsibility under state or other federal laws.

(3) Expenditures of moneys for lands, waters, and facilities referred to in subsection (2), above, shall reflect the following objectives and priorities in the order stated, in lieu of the priorities stated in KRS 350.555:

(a) The protection of public health, safety, general welfare, and property from extreme danger of adverse effects of mineral mining and processing practices.

(b) The protection of public health, safety, and general welfare from adverse effects of mineral mining and processing practices.

(c) The restoration of land and water resources and the environment previously degraded by the adverse effects of mineral mining and processing practices.

(4) Sites and areas designated for remedial action pursuant to the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. Section 7901 et seq.) or which have been listed for remedial action pursuant to the Comprehensive Environmental Response Compensation and Liability Act of 1980 (42 U.S.C. Section 9601 et seq.) shall not be eligible for expenditures from the fund under this section.

(5) Reclamation projects involving the protection, repair, replacement, construction, or enhancement of utilities such as those relating to water supply, roads, or other facilities serving the public adversely affected by mineral mining and processing, and the construction of public facilities in communities impacted by coal or other mineral mining and processing practices, shall be deemed part of the objectives set forth, and undertaken as they relate to, the priorities stated in subsection (3) above.

(6) Notwithstanding subsection (5), above, if the Secretary of the Interior has concurred in the certification referenced in subsection (1), above, and the Governor determines that there is a need for activities or construction of specific public facilities related to the coal or minerals industry and if the Secretary of the Interior concurs in the need, then the Commonwealth of Kentucky may use annual grants made available under KRS 350.550(3) to carry out the activities or construction.

(7) The provisions of KRS 350.570 and KRS 350.575 shall apply to subsections (1) through (5) of this section, except that for purposes of this section, the references to coal in KRS 350.570 and KRS 350.575 shall not apply.

SECTION 4. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) The Finance and Administration Cabinet shall establish a special trust fund which may receive and retain up to ten percent (10%) of the total grants made annually by the Secretary of the Interior, pursuant to Section 402(g)(6) and (7) of P.L. 95-87.

(2) Sums deposited into the special trust fund, and interest earned thereon, shall be expended either:

(a) For the priorities stated in KRS 350.555 after September 30, 1995; or

(b) For acid mine drainage abatement and treatment in accordance with the requirements of Section 402(g)(7) of P.L. 95-87.

HB 58, AN ACT relating to hunting and fishing licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in the following subsections of this section, and subject to administrative regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for herein, except to the extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.

(3) The resident owner of farmlands, his spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon these farmlands, shall have the same privilege.

(4) Residents or nonresidents attending and participating in any field trial as authorized by the department may attend and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five (65) years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.

(7) Any disabled American veteran who is at least fifty percent (50%) disabled as a result of a service-connected disability who is residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while doing so shall carry the card provided for by this subsection in order to be exempt from hunting or fishing license requirements. A disabled veteran shall obtain a copy of his disability rating from the Veterans Administration. He shall forward the copy to the Director of the Division of Law Enforcement of the Department of Fish and Wildlife Resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of the certification.

(8) Any resident who is declared totally and permanently disabled by***:***

(a) The federal Social Security Administration***;*** [~~or by~~]

(b) The state Workers' Compensation Board***; or***

(c) The United States Railroad Retirement Board

may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses.

(9) Resident landowners, their spouses, or dependent children who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon, shall not be required to have a hunting

or trapping license. Tenants or their dependent children residing upon the lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(10) If a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and ratified by the General Assembly and the similar authority of Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.

The Committee Amendment No. 1 to **HB 58** is as follows:

Amend printed copy of **HB 58** on page 3, line 15, after "may", by placing brackets around and striking through ", without any"; and by inserting "***receive a fifty percent (50%) discount on the***"; and after "fishing", by inserting "***license***" and by placing a bracket before and striking through "licenses"; and

On line 16, by placing a "]" after "licenses" and striking through all the material before the bracket; and

On page 3, line 17, after "(9)" by adding "***The department may grant permission to groups of disabled hunters or fishermen to participate in organized hunting or fishing outings without payment of hunting or fishing license fees if the group's organizer contacts the department, and administrative regulations promulgated by the department relative to this type of activity are satisfied.***"; and

On page 4, line 1, by placing brackets around and striking through "(10)" and by inserting "***(11)***" before "(10)".

On page 4, after line 13, by adding the following:

"Section 2. In order to correspond with the department's licensing schedule, this Act shall become effective on March 1, 1994."

The Committee on State Government reported **HB 581**, with Committee Substitute and Title Amendment attached thereto, **HB 822**, with Committee Amendment attached thereto, and **HB 861**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 581. AN ACT relating to forestry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 149.080 is amended to read as follows:

Forest wardens employed by the Natural Resources and Environmental Protection Cabinet, shall assist in preventing, controlling and extinguishing forest fires, under direction of the cabinet. A forest warden ***shall*** [~~must~~] be a full-time employee of the Natural Resources and Environmental Protection Cabinet who has been appointed by the secretary. ***A forest warden may carry a firearm if authorized to do so by the secretary. The type of firearm shall be approved by the secretary and the firearm may be purchased by the forest warden.*** A deputy forest warden ***may*** [~~can~~] be a full-time or part-time employee of the cabinet or a non-employee who has been appointed by the secretary to have the same rights and privileges of a forest warden except the issuing of citations or arrests for violations of this chapter, [~~or~~] collection of suppression costs, ***or carrying a firearm.***

The Committee Substitute to **HB 581** is as follows:

HB 581. AN ACT relating to forestry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 149.080 is amended to read as follows:

Forest wardens employed by the Natural Resources and Environmental Protection Cabinet, shall assist in preventing, controlling and extinguishing forest fires, under direction of the cabinet. A forest warden ***shall***

[~~must~~] be a full-time employee of the Natural Resources and Environmental Protection Cabinet who has been appointed by the secretary. ***A forest warden may carry a firearm if authorized to do so by the secretary. The type of firearm shall be approved by the secretary. Forest wardens who carry a firearm shall pay for the purchase of the firearm and for any bonding or firearm training required.*** A deputy forest warden ***may*** [~~can~~] be a full-time or part-time employee of the cabinet or a non-employee who has been appointed by the secretary to have the same rights and privileges of a forest warden except the issuing of citations or arrests for violations of this chapter***,*** [~~or~~] collection of suppression costs***, or carrying a firearm.***

The Committee Title Amendment to **HB 581** is as follows:

Amend printed copy of **HB 581**, Title, by deleting "forestry" and inserting in lieu thereof "firearms".

HB 822, AN ACT relating to the State Police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

The Department of State Police may purchase liability insurance to cover state police officers for alleged acts of malfeasance while on duty.

Section 2. KRS 16.185 is amended to read as follows:

(1) Any officer who is sued for any act or omission in the line of duty and who has a judgment for monetary damages rendered against him in his individual capacity, and who personally suffers actual financial loss, unreimbursed from any source, by the enforcement and satisfaction of the judgment, including any costs or attorney fees awarded pursuant thereto, shall be indemnified by the Commonwealth, from funds appropriated to the Finance and Administration Cabinet for the payment of judgments, to the extent of his actual financial loss ***or to the extent that he is not reimbursed through the purchase of insurance authorized by Section 1 of this Act.***

(2) The indemnification shall be contingent upon an express determination by the commissioner that the act or omission which resulted in liability was within the scope and course of the officer's employment and occurred during the performance of duty and was committed or omitted in the good faith belief that the act or omission was lawful and proper.

(3) If the officer seeking indemnification is the commissioner, the determination referred to in subsection (2) of this section shall be made by the Governor.

(4) The indemnification shall not be construed to abrogate or limit any privilege, immunity, or matter of defense otherwise available to the officer and shall not constitute a waiver of any privilege, immunity, or matter of defense, including the sovereign immunity of the Commonwealth.

(5) The indemnification shall not be the subject of comment, directly or indirectly, before any jury hearing any cause of action in which an officer is a party, and any comment before the jury shall result in an immediate mistrial.

The Committee Amendment No. 1 to **HB 822** is as follows:

Amend printed copy of **HB 822** on page 1, line 5, by deleting "***malfeasance***" and inserting in lieu thereof "***negligence***".

HB 861, AN ACT relating to the Kentucky Information Systems Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61.940 to 61.957 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) Information and information resources residing in the various agencies of state government are strategic assets belonging to the people of Kentucky that must be managed as valuable state resources;

(2) Technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and ongoing at a rapid rate;

(3) The nature of technological and theoretical advances presents Kentucky with the opportunity to provide higher quality, more timely, and more cost-effective government services;

(4) The danger exists that state agencies could independently acquire uncoordinated and duplicative information resources and information technologies that are more appropriately acquired as part of a coordinated effort for maximum cost-effectiveness and use;

(5) The sharing of information resources and technologies among state agencies is the most cost-effective method of providing the highest quality and most timely government services that would otherwise be cost prohibitive;

(6) Considerations of cost and the need for the transfer of information among agencies of state government in the most timely and useful form possible require a uniform policy and coordinated approach for the use and acquisition of information resources and technologies; and

(7) It is the policy of the Commonwealth of Kentucky to coordinate and direct the use of information resources and technologies to provide the most cost-effective and useful retrieval of information by its elected and appointed officials.

(8) To effect the implementation of this Act, all budget units which receive appropriations for the fiscal years 1992 to 1994 biennium shall submit to the Kentucky Information Systems Commission by January, 1993, a five (5) year strategic information resources management plan as provided in KRS 61.950. From these plans, the commission shall formulate a five (5) year statewide information resources plan pursuant to KRS 61.950, by September 15, 1993. Thereafter, budget units shall submit any modifications to their respective plans by January of odd-numbered years, and the commission shall update the statewide plan by September 15 of odd-numbered years.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61.940 TO 61.957 IS CREATED TO READ AS FOLLOWS:

As used in KRS 61.940 to 61.957:

(1) "Commission" means the Kentucky Information Systems Commission;

(2) "Communications" or "telecommunications" means any transmission, emission, or reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems and includes all facilities and equipment performing these functions;

(3) "Council" means the Communications Advisory Council established in KRS 61.955;

(4) "Geographic information system" means a computerized database management system for the capture, storage, retrieval, analysis, and display of spatial (locationally defined) data;

(5) "Information resources" means the procedures, equipment, and software that are designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel;

(6) "Information technologies" means data processing and telecommunications hardware, software, services, supplies, personnel, facilities, maintenance, and training which are used to support information processing and telecommunications systems; and

(7) "Project" means a program to provide information technologies support to functions for a state agency, which should be characterized by well-defined parameters, specific objectives, common benefits, planned activities, expected outcomes and completion dates, and an established budget with a specified source of funding.

Section 3. KRS 61.945 is amended to read as follows:

(1) There is hereby created an independent agency of state government to be known as the Kentucky Information Systems Commission[~~, hereafter called the commission~~]. It shall be the responsibility of the commission to coordinate ***the formulation and guide the implementation of***[~~, on a statewide level,~~] strategic planning for computerized information systems in state government.

(2) The commission shall consist of:

(a) Three (3) officers of the Finance and Administration Cabinet which shall include the secretary of the cabinet and the commissioners of the Department of Administration and Department of Information Systems or their respective designees;

(b) The state budget director or his designee;

(c) [~~The Secretary of State or his designee;~~

~~(d) The State Treasurer or his designee;~~

~~(e) The Attorney General or his designee;~~

~~(f) The director of the Administrative Office of the Courts or his designee;~~

~~(g) The Auditor of Public Accounts or his designee;~~

~~(h) The state librarian or his designee;~~

~~(i)~~] The executive director of the Council on Higher Education or his designee;

(d) One (1) representative of the area development districts appointed by the Governor from a list of three (3) persons submitted by the executive director of the Department of Local Government; and

[~~(j) One (1) representative of the Kentucky Association of Counties appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Counties;~~

~~(k) One (1) representative of the Kentucky League of Cities appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky League of Cities;~~

~~(l) One (1) member of the press to be appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Press Association; and~~]

(e) One (1) chief information officer from the private sector appointed by the Governor from a list of three (3) persons submitted by the commission;

[~~(m) Three (3) citizen members appointed by the Governor.~~]

(3) A member of the commission shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the automated information industry;

(b) Own, control, or have directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the automated information industry; [~~or~~]

(c) Be in any manner connected with any contract or bid for furnishing any state governmental body with automated information systems, the computers on which they are automated, or a service related to the automation of information systems or the computers in which they are automated, or a related service***; or***

(d) Be liable to civil action or any action performed in good faith in the performance of duties as a commission member.

(4) It shall be a ground for removal of a member of the commission if the member violates a prohibition established by subsection (3) of this section. The validity of an action of the committee shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal of a commission member exists, the chairman shall notify the Governor of the potential ground for removal.

(5) The term of office of the members specified in subsection (2)(a) to ***(c)***[~~(h)~~] of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(6) Appointed members of the commission shall serve for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. If a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(7) If any commission member misses two (2) consecutive meetings of the commission, then that position may be declared vacant by the chairman who shall take steps to fill one vacancy in accordance with this subsection.

(8)[~~(7)~~] Members of the commission shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(9)[~~(8)~~] A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at commission meetings.

Section 4. KRS 61.950 is amended to read as follows:

(1) The commission shall meet ***and report its findings to the Legislative Research Commission*** at least four (4) times each year. It shall select from its membership a chairman and any other officers it considers essential. In addition, the commission, upon the call of its officers, may hold meetings at any time it deems necessary.

(2) The commission's duties shall include the following:

(a) Formulation of a ***five (5) year*** statewide information resources management plan***, updated every two (2) years,*** from long-range information resources management plans submitted by the three (3) branches and constitutional offices of government, including the public universities, as the commission may require.

1. The [~~This~~] plan shall take into account projected information resource requirements of the Commonwealth of Kentucky and all its public universities, departments, officers, agencies and subdivisions, with particular emphasis on coordination of strategic planning for ***information processing and communications*** [~~computerized information~~] systems and state and local government information transfers;

2. The plan shall establish long range policy guidelines and strategies at the state level to be used by agencies in the development and implementation of their own technology plans;

3. The plan shall identify major issues related to improved information resources management, including the identification of procurement policy initiatives to encourage resource sharing;

4. The plan shall identify priorities for the implementation of information technologies based on relative economic and social impacts on the Commonwealth;

5. The plan shall emphasize connectivity and provide for the electronic transfer of data between agencies.

(b) Developing and publishing standards, policies, and guidelines relating to the management of information resources by state agencies, and ensuring compliance with those standards, policies and guidelines;

(c) Coordinating, through policy and interagency agreements, a program of training and education for state and local agencies regarding strategic information systems planning, and the selection and use of information technologies;

(d) Reviewing and approving or disapproving, in whole or part, agency five (5) year strategic information resources plans and forwarding those plans with findings and recommendations to the agency head, the Governor's Office for Policy and Management, and the Legislative Research Commission for use during the preparation and enactment of the biennial budget;

(e) Identifying and assessing opportunities for multi-agency development and use of information resources, or the development of agency projects or processes which would improve the quality and availability of information services or products. When identifying the opportunities, the commission shall require agencies to evaluate these opportunities as alternatives to their own plans, and shall forward these findings as provided in paragraph (d) of this subsection; [~~and~~]

(f) Monitoring and evaluating the use of information technologies by state agencies;

(g)[~~(b)~~] Recommending procedures and legislation to improve the accessibility of machine readable public records; and

(h)[~~(c)~~] Recommending procedures and legislation to insure the privacy of individuals, with particular emphasis on the potential for invasion of individual privacy.

(4) The commission shall approve or disapprove an agency's procurement of information technologies on the basis that the agency's plan complies with the implementation of statewide initiatives and processes identified in the statewide plan, and shall make a finding to that effect, and report the finding to the agency, the state budget director, the Legislative Research Commission and the legislature.

(5) The commission shall have the authority to enter into memoranda of agreements and contracts for the furtherance of this section.

(6)[~~(3)~~] The commission shall have a permanent staff to assist it in the formulation of the statewide ***information resources*** [~~electronic data processing~~] plan and to provide necessary support for its research activities. Permanent staff shall be knowledgeable in the management of information systems. To accomplish the commission's work, all public universities, departments, divisions, agencies and officers of the Commonwealth shall furnish the commission necessary assistance, resources, information, records or advice as it may require which is pertinent to the subject matter being studied. The commission shall report its findings and recommendations to the Legislative Research Commission on a quarterly basis. All reports of the commission shall be made readily available to the general public.

(7)[~~(4)~~] Nothing in KRS 61.940, 61.945 or this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

(8) All commission reports and findings of fact provided by this section shall be forwarded to the Kentucky Association of Counties and the Kentucky League of Cities for review.

(9) Any geographic information system database development by a public agency after the effective date of this Act shall ensure shared access to geographic information system data usable in statewide application development, and shall establish 1:24,000 scale United States Geological Survey maps, and the National Geodetic Reference System of geodetic reference points, as the standard for all proposed statewide geographic information system applications.

(10)[~~(5)~~] The commission may promulgate necessary administrative regulations for the furtherance of this section.

The Committee Amendment No. 1 to **HB 861** is as follows:

Amend printed copy of **HB 861** on page 6, line 8, by removing the brackets and strikethroughs on "or"; and

On page 6, line 14, by deleting "***; or***"; and

On page 6, by deleting lines 15 and 16 in their entirety; and

On page 6, line 17, by deleting "***commission member***"; and

On page 10, line 17, by changing "***(4)***" to "***(3)***"; and

On page 10, line 25, by changing "***(5)***" to "***(4)***"; and

On page 11, line 2, by changing "***(6)***" to "***(5)***"; and

On page 11, line 17, by changing "***(7)***" to "***(6)***"; and

On page 11, line 22, by changing "***(8)***" to "***(7)***"; and

On page 11, line 26, by changing "***(9)***" to "***(8)***"; and

On page 12, line 9, by changing "***(10)***" to "***(9)***".

The Committee on Transportation reported **HB 201**, with Committee Substitute attached thereto, **HB 658**, **HB 708**, with Committee Substitute attached thereto, **HB 731**, with Committee Amendment attached thereto, **HB 905**, **HJR 130**, **HJR 147**, with Committee Amendment attached thereto, **HJR 148** and **SB 70** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 201, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.222 is amended to read as follows:

(1) The secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of the roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body, [~~or~~] load, or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13 1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. No single axle in any arrangement shall exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;

(e) Truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(3) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(4) Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.

(5) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(6) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.

(7) Notwithstanding any other provisions of this chapter, the secretary of the Transportation Cabinet may not authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.

(8) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be ***exempt from*** [~~permitted a tolerance of ten percent (10%) of~~] the axle weight provisions ***set forth in*** [~~before a carrier is deemed to have violated~~] paragraph (1)(c) of this section.

The Committee Substitute to **HB 201** is as follows:

HB 201, AN ACT relating to motor carriers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.222 is amended to read as follows:

(1) The secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of the roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body***,*** [~~or~~] load***,*** or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13 1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. ***A*** [~~No~~] single axle in any arrangement shall ***not*** exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;

(e) Truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(3) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(4) Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.

(5) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(6) The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.

(7) Notwithstanding any other provisions of this chapter, the secretary of the Transportation Cabinet ***shall*** [~~may~~] not authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.

(8) Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be ***exempt from*** [~~permitted a tolerance of ten percent (10%) of~~] the axle weight provisions ***set forth in*** [~~before a carrier is deemed to have violated~~] paragraph (1)(c) of this section ***within a radius of one hundred (100) air miles from the point of origin of the material being transported.***

HB 658, AN ACT relating to overdimension permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.270 is amended to read as follows:

(1) The department may ***promulgate*** [~~prescribe~~], by administrative regulations, ***pursuant to KRS Chapter 13A,*** for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles, and vehicles transporting microwave satellite television antennae, vehicles transporting boats or farm equipment, whose gross weight including load, height, width, or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes, and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay in addition to a fee of sixty dollars ($60) for each overweight permit a fee of: forty dollars ($40) for any vehicle with six (6) axles; fifty dollars ($50) for any vehicle with seven (7) axles; sixty dollars ($60) for any

vehicle with eight (8) axles; seventy dollars ($70) for any vehicle with nine (9) or more axles. For an overdimension permit the applicant shall pay a fee of sixty dollars ($60), and in addition, a fee of thirty dollars ($30) for any permit authorizing the movement of a load having a width of from ten (10) to fourteen (14) feet, or fifty dollars ($50) for any permit authorizing the movement of a load having a width in excess of fourteen (14) feet; twenty dollars ($20) for each single trip house trailer permit if the house trainer is fourteen (14) feet wide or less; forty dollars ($40) for each single trip house trailer permit if the house trailer exceeds fourteen (14) feet in width; a fee of eighty dollars ($80) for each annual house trailer, farm equipment, ***utility equipment transporter including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or twelve (12) feet in width,*** boat transporter, or microwave antennae transporter permit; a fee of five hundred dollars ($500) for each annual boat permit for units in excess of sixty-five (65) feet in length and twelve (12) feet in width; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes, and recreational vehicles in accordance with the terms of ***the*** [~~any such~~] permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) Annual boat permits shall be issued for any unit, including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or fourteen (14) feet in width exclusive of usual and ordinary overhang. The department may, by regulation, limit annual boat permits for units including towing vehicle and trailer combinations which exceed sixty-five (65) feet in length and twelve (12) feet in width to manufacturers and dealers, to specified routes or to exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or an unreasonable impedence of the flow of traffic would result from the presence of such units. Movement of boats in excess of sixty-five (65) feet in length and twelve (12) feet in width shall be preceded by notification to the Department of Vehicle Regulation, Division of Motor Carriers of any trip to be made under the permit. The department may, no later than eighteen (18) hours after the receipt of notice, prohibit ***the*** [~~said~~] trip if, because of temporary or special conditions, an unreasonable risk of accident or unreasonable impedence of the flow of traffic would be created.

(3) Any motor carrier transporting equipment used to mold steel which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit pursuant to subsection (1) of this section. The permit shall be limited to a vehicle operating on a round trip basis of not more than twenty-five (25) miles. The material movement shall be limited to the manufacturing facilities of the same corporation. Reporting of these movements shall be on an annual basis, but shall include an estimate of trips which will be made weekly. The cost of the annual permit shall be five hundred dollars ($500).

(4) (a) Annual overlength permits may be issued to any utility pole or pipe transporter under the following conditions:

1. An annual overlength permit may be issued for a towing vehicle and trailer combination which does not exceed one hundred twenty-five (125) feet in overall length. Restrictions may be placed on routes and the permit use limited if unreasonable risk of accident or unreasonable impedence of traffic flow could be created. An annual permit to transport poles or pipe which are fifty-five (55) feet or less in length shall cost one hundred dollars ($100). An annual permit to transport poles or pipe which are more than fifty-five (55) feet in length shall cost three hundred fifty dollars ($350). The Department of Highways may prescribe the use of escort vehicles ***for transporters of poles or pipes which exceed fifty-five (55) feet in length,*** and the permit holder shall notify the Department of Highways of each trip or series of trips to be made ***that requires an escort***. The department may cancel or reroute the trip if an unreasonable risk of accident or impedence of the flow of traffic could be created.

2. An annual overlength permit may be issued for a straight truck capable of transporting utility poles or pipe on a specially designed pole rack mounted on the body of the truck if the pole or pipe length exceeds forty-five (45) feet. Restrictions may also be placed on routes and the permit use limited if unreasonable risk of accident or unreasonable impedence to traffic flow could be created. The cost of this overlength permit shall be one hundred dollars ($100).

3. An annual overlength permit may be issued for a straight truck capable of transporting utility poles or pipe on specially designed pole racks mounted on the body of the truck if the pole or pipe length exceeds fifty-five (55) feet, but does not exceed ninety-five (95) feet. The permit shall cost three hundred fifty dollars ($350). The Department of Highways may prescribe the use of escort vehicles, and the permit holder shall notify the Department of Highways of each trip or series of trips made. The department may cancel or reroute the trip if an unreasonable risk of accident or impedance of the flow of traffic could be created.

4. More than one (1) type of permit authorized in subparagraphs (1) and (2) of this paragraph may be issued for the same vehicle. The maximum cost of the multiple-use annual permit shall be three hundred fifty dollars ($350).

(b) The secretary of transportation shall, by administrative regulation, prescribe additional safety requirements for movements of these vehicles. Regulations promulgated for this subsection ***and for utility equipment transporters under Section 1(1) of this Act*** shall not restrict the ability of a permit holder to respond to an emergency due to an electrical or gas outage.

(5) Each motor carrier used in transporting prefabricated wood trusses, used in residential and commercial construction, which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit. The Department of Vehicle Regulation shall assess the applicant a fee of five hundred dollars ($500) for each annual permit. A copy of the permit shall be carried at all times in the vehicle and shall be shown to a peace officer upon demand. The department may restrict the use of the permits to specified routes or exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or impedence of the flow of traffic could result. The department shall ***promulgate*** [~~adopt~~] administrative regulations setting forth the safety requirements which shall be met prior to the movement of any vehicle under the provisions of this permit including setting the dimensions at which the transporter shall contact the department for specific, individual authority for the movement under the annual permit.

(6) Any person transporting a parade float which exceeds the dimensional limits on a highway over which it is transported shall be required to obtain a permit as required in subsection (1) of this section. If the float is being used in conjunction with a parade to be held within the boundaries of the Commonwealth, no fee shall be assessed by the department for the issuance of the permit.

(7) No person shall operate any motor vehicle, mobile home, or recreational vehicle in violation of the terms of the permit.

HB 708, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Brand" means a designation affixed to a motor vehicle title which shall be fixed to all subsequently issued titles for that motor vehicle.

(b) "Nonreparable vehicle" means:

1. Any vehicle which has been determined to be nonreparable by an insurer and which has no value except as a source of parts or scrap and shall never be rebuilt as a vehicle for use on the highway; or

2. Any vehicle which has been damaged, is inoperable, and has no value except for use as parts and scrap metal.

(2) Any motor vehicle title which has been branded by another licensing jurisdiction shall, upon application for a Kentucky title, be branded with the nearest applicable brand, except for those motor vehicles branded as nonreparable. If a vehicle has been deemed by another jurisdiction to be nonreparable, then the provisions of subsection (4) of this section shall apply.

(3) A motor vehicle transferred to Kentucky from a licensing jurisdiction which has branded the title as nonreparable or unrebuildable and which has been issued the equivalent of a motor vehicle death certificate shall be neither titled nor registered in this state.

(4) Any person who offers for sale a motor vehicle which has a branded or salvage title shall disclose the existence of the branded or salvaged title to any prospective purchaser prior to the sale of the motor vehicle.

(5) The Transportation Cabinet may promulgate administrative regulations regarding the method of disclosure.

The Committee Substitute to **HB 708** is as follows:

HB 708, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 190.010 is amended to read as follows:

As used in ***Sections 1 to 10 of this Act*** [~~KRS 190.010 to 190.080 unless the context requires otherwise~~]:

(1) "Manufacturer" means any person, partnership, firm, association, corporation or trust, resident or nonresident, who manufactures or assembles new motor vehicles, or imports for distribution through distributors of new motor vehicles, or any partnership, firm, association, joint venture, corporation or trust, resident or nonresident, which is controlled by the manufacturer. Additionally, the term "manufacturer" shall include the following terms:

(a) "Distributor" which means any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers, or who maintains factory representatives, or who controls any person, firm, association, corporation or trust, resident or nonresident, who in whole or in part offers for sale, sells, or distributes any new motor vehicle to new motor vehicle dealers.

(b) "Factory branch" which means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, new motor vehicles to a distributor, wholesaler, or new motor vehicle dealer, or for directing or supervising, in whole or in part, factory or distributor representatives, and shall further include any sales promotion organization, whether the same be a person, firm, or corporation, which is engaged in promoting the sale of new motor vehicles in this state of a particular brand or make to new motor vehicle dealers.

(c) "Factory representative" which means a representative employed by a manufacturer, distributor, or factory branch for the purpose of making or promoting for the sale of his, its, or their new motor vehicles, or for supervising or contracting with his, its, or their dealers, or prospective dealers.

(d) "Distributor branch" which means a branch office similarly maintained by a distributor or wholesaler for the same purposes.

(e) "Distributor representative" which means a representative similarly employed by a distributor, distributor branch, or wholesaler.

(2) "Motor vehicle dealer" means any person not excluded by subsection (3) of this section, engaged in the business of selling, offering to sell, soliciting, or advertising the same, of new or used motor vehicles, or possessing motor vehicles for the purpose of resale, either on his own account, or on behalf of another, either as his primary business or incidental thereto.

(3) The term "motor vehicle dealer" ***shall*** [~~does~~] not include:

(a) Receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under the judgment or order of any court, and any bank, trust company or lending institution ***that*** [~~which~~] is subject to state or federal regulation [~~as such~~], with regard to its disposition of repossessed motor vehicles;

(b) Public officers while performing their official duties; or

(c) Employees of persons enumerated in paragraphs (a) and (b) of this subsection, when engaged in the specific performance of their duties as [~~such~~] employees.

(4) "New motor vehicle dealer" means a vehicle dealer who holds a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of ***the*** [~~said~~] manufacturer's new motor vehicles.

(5) "Used motor vehicle dealer" means any person engaged in the business of selling at retail, displaying, offering for sale, or dealing in used motor vehicles, but ***shall*** [~~does~~] not mean [~~any new motor vehicle dealer selling, displaying, offering for sale, or dealing in used motor vehicles incidentally to engaging in the business of selling, displaying, offering for sale, or dealing in new motor vehicles,~~] any person engaged in the business of dismantling, salvaging, or rebuilding motor vehicles by means of using used parts, or any public officer performing his official duties.

(6) "Motor vehicle leasing dealer" means any person engaged in the business of regularly making available, offering to make available, or arranging for another person to use a motor vehicle pursuant to a bailment, lease or other contractual arrangement under which a charge is made for its use at a periodic rate for at least a monthly term, and title to the motor vehicle is in a person other than the user, but ***shall*** [~~does~~] not mean a manufacturer or its affiliate leasing to its employees or to dealers.

(7) "Restricted motor vehicle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises specialized motor vehicles ***including*** [~~such as~~], but not limited to, funeral coaches and emergency vehicles.

(8) "Motorcycle dealer" means a motor vehicle dealer who exclusively sells, offers to sell, solicits, or advertises motorcycles. Motorcycles shall not include mopeds as defined in this section.

(9) "Motor vehicle salesman" means any person who is employed as a salesman by a motor vehicle dealer to sell motor vehicles, or who is employed as an auctioneer by a motor vehicle auction dealer to sell motor vehicles at auction.

(10) "Motor vehicle auction dealer" means any person who offers, negotiates, or attempts to negotiate a sale, purchase, or exchange of a motor vehicle ***that*** [~~which~~] may be lawfully kept or offered for sale by or at public auction [~~or who sells same at auction~~].

(11) "Motor vehicle" means every vehicle intended primarily for use and operation on the public highways, ***that*** [~~which~~] is self propelled, ***but shall not include*** [~~not including~~] farm tractors and other machines and tools used in the production, harvesting, and care of farm products.

(12) "New motor vehicle" means a vehicle ***that*** [~~which~~] is in the possession of the manufacturer, distributor, or wholesaler, or has been sold [~~only~~] to the holders of a valid sales and service agreement, franchise, or contract, granted by the manufacturer, distributor, or wholesaler for the sale of ***the*** [~~said~~] make of new vehicle, [~~and~~] which is[~~, in fact,~~] new, and on which the original title has not been issued from the franchised dealer.

(13) "Moped" means [~~either~~] a motorized bicycle ***with pedals*** whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank [~~so long as it also has pedals~~], or a motorized bicycle ***with pedals and*** with a step through type frame [~~which may or may not have pedals~~] rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(14) "Commission" means the Motor Vehicle [~~dealer's licensing~~] Commission.

(15) "Commissioner" means the commissioner of ***the department*** [~~vehicle regulation~~].

(16) "Department" means the Department of Vehicle Regulation.

(17) "Licensor" means the commission.

(18) "Established place of business" means a permanent, enclosed commercial building located within this state easily accessible and open to the public at all reasonable times, and at which the business of a vehicle dealer, including the display and repair of vehicles, may be lawfully carried on in accordance with the terms of all applicable building codes, zoning, and other land use regulatory ordinances.

(19) "Person" means a person, partnership, firm, corporation, [~~or~~] association, trust, estate or other legal entity.

(20) "Franchise" means the agreement or contract between any new motor vehicle manufacturer, written or otherwise, and any new motor vehicle dealer ***that*** [~~which~~] purports to fix the legal rights and liabilities of the parties to [~~such~~] an agreement or contract, and pursuant to which the dealer purchases and resells the franchise product.

(21) "Good faith" means honesty in fact, and the observance of reasonable commercial standards of fair dealing in the trade, as is defined and interpreted in KRS 355.2-103(1)(b).

(22) "Designated family member" means the spouse, child, grandchild, parent, brother, or sister of a dealer who, in the case of a deceased dealer, is entitled to inherit the dealer's ownership interest in the dealership under the terms of the dealer's will; or who has otherwise been designated in writing by a deceased dealer to succeed him in the motor vehicle dealership; or who, under the laws of intestate succession of this state is entitled to inherit the interest; or who, in the case of an incapacitated dealer, has been appointed by a court as the legal representative of the dealer's property. The term includes the appointed and qualified personal representative and testamentary trustee of a deceased dealer.

(23) "Fraud" means a misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact; a promise or representation not made in good faith; or an intentional failure to disclose material fact.

(24) "Sale" means the issuance, transfer, agreement for transfer, exchange, pledge, hypothecation, mortgage in any form, whether by transfer in trust or otherwise, of any motor vehicle or interest ***in it*** [~~therein~~], or of any franchise related ***to it*** [~~thereto~~], as well as any option, subscription, [~~or~~] other contract, or solicitation looking to a sale, offer to attempt to sell in any form, whether spoken or written. A gift or delivery of any motor vehicle or franchise with respect thereto, with or as a bonus on account of the sale of anything, shall be deemed a sale of ***the*** [~~such~~] motor vehicle or franchise.

Section 2. KRS 190.030 is amended to read as follows:

(1) ***A*** [~~No~~] motor vehicle dealer, new, used, or auction motor vehicle dealer, motor vehicle leasing dealer, restricted motor vehicle dealer, motorcycle dealer, broker, wholesaler, or a salesman of motor vehicles [~~in any of the described categories herein,~~] shall ***not*** engage in business [~~as such~~] in this state without a license [~~therefor~~] as provided in KRS 190.010 to 190.080. If ***a*** [~~any such~~] person acts as a motor vehicle salesman, he shall secure a motor vehicle salesman's license in addition to a license for a motor vehicle dealer. The motor vehicle commission ***may*** [~~is authorized to~~] provide by ***administrative*** regulation for other licensee activities and an appropriate fee [~~therefor~~].

(2) ***A*** [~~No~~] manufacturer of motor vehicles, [~~or~~] factory branch, [~~or~~] distributor, [~~or~~] distributor branch, or wholesaler shall ***not*** engage in business [~~as such~~] in this state without a license [~~therefor~~] as provided in KRS 190.010 to 190.080.

(3) ***A*** [~~No~~] factory representative or distributor representative shall ***not*** engage in business [~~as such~~] in this state without a license [~~therefor~~] as provided in KRS 190.010 to 190.080.

(4) Application for license shall be made to the licensor, at ***a*** [~~such~~] time, in ***a*** [~~such~~] form, and containing [~~such~~] information [~~as~~] the licensor shall require and shall be accompanied by the required fee. The licensor may require in ***the*** [~~such~~] application, or otherwise, information relating to the applicant's solvency, his financial standing, or other pertinent matter commensurate with the safeguarding of the public interest in the locality in which ***the*** [~~said~~] applicant proposes to engage in business. ***The information*** [~~, all of which~~] may be considered by ***the*** [~~said~~] licensor in determining the fitness of ***the*** [~~said~~] applicant to engage in business as set forth in this section.

(5) All licenses shall be granted or refused within ***thirty (30)*** days after submission of a complete application [~~therefor,~~] and shall expire, unless [~~sooner~~] revoked or suspended, on December 31 of the calendar year for which they are granted. ***If*** [~~, except that where~~] a complaint of unfair cancellation of dealer franchise is in the process of being heard, ***a*** [~~no~~] replacement application for ***the*** [~~such~~] franchise shall ***not*** be considered until a decision is rendered by the commission.

(6) The license fee for ***a*** [~~such~~] calendar year, or part thereof, shall be as follows[~~, effective January 1, 1982~~]:

(a) For new motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof, plus one hundred dollars ($100) for a supplemental license for each used car lot not immediately adjacent to the office or to a branch.

(b) For used motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(c) For motor vehicle leasing dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(d) For restricted motor vehicle dealers, one hundred dollars ($100) for each office or branch or agent thereof.

(e) For motorcycle dealers, one hundred dollars ($100) for each office, branch, or agent thereof.

(f) For motor vehicle manufacturers, one hundred dollars ($100); and for each factory branch in this state, one hundred dollars ($100).

(g) For distributors, motor vehicle auction dealers or wholesalers, the same as for dealers.

(h) For motor vehicle salesmen, ten dollars ($10).

(i) For factory representatives, or distributor branch representatives, one hundred dollars ($100).

(7) The licenses of dealers, manufacturers, factory branches, distributors, and distributor branches shall specify the location of the office or branch and ***shall*** [~~must~~] be conspicuously displayed there. ***If the*** [~~In case such~~] location ***is*** [~~be~~] changed, the licensor shall indorse the change of location on the license without charge if it ***is*** [~~be~~] within the same municipality, ***if*** [~~provided that~~] the licensee meets ***the*** [~~those~~] requirements set forth by the commission through ***administrative*** [~~rules and~~] regulations and pays a fee of one hundred dollars ($100). A change of location to another municipality shall require a new license.

(8) Every salesman, factory representative, or distributor representative shall carry his license when engaged in [~~his~~] business, and display ***it*** [~~the same~~] upon request. The license shall name his employer***;*** [~~,~~] and in case of a change of employer, the salesman shall immediately mail his license to the licensor who shall indorse ***the*** [~~such~~] change on the license without charge.

(9) ***If*** [~~Provided~~] the licensor has reasonable cause to doubt the financial responsibility or the compliance by the applicant or licensee with the provisions of this statute, the licensor may require ***the*** [~~such~~] applicant or licensee to furnish and maintain a bond in ***a*** [~~such~~] form, amount and with [~~such~~] sureties [~~as it shall approve, but~~] not less than fifteen thousand dollars ($15,000), conditioned upon ***the*** [~~such~~] applicant or licensee complying with the provisions of the statutes applicable to the licensee. The bonds shall be executed in the name of the state of Kentucky for the benefit of any aggrieved parties, but the penalty of ***the*** [~~said~~] bond shall not be invoked except after a court adjudication. [~~thereof. Upon regulations promulgated by the commission,~~] The commission may ***promulgate administrative regulations to*** permit the applicant to submit evidence, in lieu of posting bond, that reliable financial arrangements, deposits, or commitments exist providing assurance, substantially equivalent to that afforded by a bond complying with this subsection, for payment on [~~such~~] conditions and [~~such~~] indemnity [~~as~~] set forth in this subsection. The [~~above~~] bonding requirements ***of this subsection*** shall not apply to manufacturers, factory branches, and their agents.

(10) Application for dealer's license shall be submitted to the ***commission*** [~~department in duplicate~~] and contain [~~such~~] information [~~as~~] the ***commission*** [~~department~~] may require. ***A*** [~~No~~] motor vehicle dealer, unless licensed under KRS 190.010 to 190.080, shall ***not*** be permitted to register, receive, or use any motor vehicle registration plates.

(11) Every motor vehicle dealer licensed in accordance with the provisions of this section shall make reports to the licensor at [~~such~~] intervals and ***show*** [~~showing such~~] information [~~as~~] the licensor may require.

Section 3. KRS 190.033 is amended to read as follows:

A [~~No~~] motor vehicle dealer's license, [~~or~~] motor vehicle auction dealer's license, or wholesaler's license shall ***not*** be issued or renewed unless the applicant or holder of ***the*** [~~said~~] license shall have on file with the ***commission*** [~~department~~] an approved indemnifying bond or insurance policy issued by ***a*** [~~some~~] surety company or insurance carrier authorized to transact business within the Commonwealth of Kentucky. The term of the bond or policy shall be continuous and shall remain in full force until cancelled under proper notice. All bonds or policies ***shall*** [~~must~~] be issued in the name of the holder or applicant for the dealer's license or wholesaler's license. The bond or policy shall provide public liability and property damage coverage for the operation of any vehicle owned or being offered for sale by the [~~said~~] dealer or wholesaler when being operated by the owner or seller, his agents, servants, employees, prospective customers, or other persons. The property damage coverage mandated by this section shall [~~only~~] be in excess of the property damage coverage under a customer's or other person's own coverage for that person's own negligence. The amount of [~~said~~] insurance shall be one hundred thousand dollars ($100,000) for bodily injury or death of any one ***(1)*** person; three hundred thousand dollars ($300,000) for bodily injury or death in any one ***(1)*** accident; and fifty thousand dollars ($50,000) property damage. ***A*** [~~Said~~] bond or insurance policy ***shall*** [~~may~~] not be cancelled unless fifteen (15) days' notice by the bondsman or insurance carrier has been given in writing to the ***commission*** [~~department~~]. Upon the cancellation of any bond or insurance policy required [~~hereunder~~], the right to engage in the business of a motor vehicle dealer or wholesaler shall immediately abate. [~~, provided, however, that~~] If the bond or insurance policy is reinstated within thirty (30) days from the date of cancellation, the rights granted by the license shall again be in force and effect***;*** [~~,~~] otherwise, the [~~said~~] license shall become void.

Section 4. KRS 190.040 is amended to read as follows:

(1) A license may be denied, suspended, or revoked on the following grounds:

(a) Proof of financial or moral unfitness of applicant;

(b) Material misstatement in application for license;

(c) Filing a materially false or fraudulent tax return as certified by the Revenue Cabinet;

(d) Willful failure to comply with any provision of this ***chapter*** [~~section~~] or any ***administrative*** [~~rule or~~] regulation promulgated under this chapter;

(e) Willfully defrauding any retail buyer to the buyer's damage;

(f) Willful failure to perform any written agreement with any buyer;

(g) Failure or refusal to furnish and keep in force any bond required;

(h) Having made a fraudulent sale, transaction, or repossession;

(i) False or misleading advertising;

(j) Fraudulent misrepresentation, circumvention, or concealment through [~~whatsoever~~] subterfuge or device of any of the material particulars or the nature ***of them*** [~~thereof~~] required [~~hereunder~~] to be stated or furnished to the retail buyer;

(k) Employment of fraudulent devices, methods, or practices in connection with compliance with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of [~~such~~] goods;

(l) Having violated any law relating to the sale, distribution, or financing of motor vehicles;

(m) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative [~~whatsoever~~] of ***the*** [~~such~~] motor vehicle manufacturer or factory branch, who has induced, [~~or~~] coerced, or attempted to induce or coerce any automobile dealer to accept delivery of any motor vehicle, [~~or~~] vehicles, parts, [~~or~~] accessories [~~therefor~~], or any other commodities ***that*** [~~which~~] shall not have been ordered by ***the*** [~~said~~] dealer;

(n) Being a manufacturer of motor vehicles, factory branch, distributor, field representative, officer, agent, or any representative [~~whatsoever~~] of ***a*** [~~such~~] motor vehicle manufacturer or factory branch, who has attempted to induce or coerce, or has induced or coerced, any automobile dealer to enter into any agreement with ***a*** [~~such~~] manufacturer, factory branch, or representative [~~thereof~~], or to do any other act unfair to ***the*** [~~said~~] dealer, by threatening to cancel any franchise existing between ***a*** [~~such~~] manufacturer, factory branch, or representative [~~thereof~~] and ***the*** [~~said~~] dealer;

(o) Being a manufacturer, factory branch, distributor, field representative, officer, agent, or any representative [~~whatsoever~~] of ***a*** [~~such~~] motor vehicle manufacturer or factory branch, who has unfairly, without due regard to the equities of ***the*** [~~said~~] dealer and without just provocation, canceled the franchise of any motor vehicle dealer. The nonrenewal of a franchise or selling agreement without just provocation or cause shall be deemed an evasion of this section and shall constitute an unfair cancellation;

(p) Being a distributor or wholesaler who makes, attempts to make, or aids or abets the making of a sale of a motor vehicle to a person other than a licensed motor vehicle dealer. ***This section*** [~~Nothing herein~~] shall ***not*** prevent any license holder from selling any motor vehicle to any of its employees;

(q) Being a dealer who advertises for sale a new motor vehicle unless he is a dealer operating under a franchise with a licensed manufacturer, factory branch, or distributor authorizing the sale of ***a*** [~~such~~] new motor vehicle.

(2) The licensor may [~~without notice~~] deny the application for a license within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for [~~such~~] denial. Upon request by the applicant whose license has been [~~so~~] denied, the licensor shall set the time and place of hearing a review of [~~such~~] denial, [~~the same~~] to be heard with reasonable promptness.

(3) ***A*** [~~No~~] license shall ***not*** be suspended or revoked except after a hearing [~~thereon~~]. The licensor shall give the licensee at least thirty (30) days' notice of the time and place of hearing and of the charges against it.

(4) The [~~department or~~] commission may inspect the pertinent books, letters, records, and contracts of a licensee.

(5) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license

to ***the*** [~~such~~] party as an individual. Each licensee shall be responsible for the acts of any or all of his salesmen while acting as his agent, if ***the*** [~~such~~] licensee approved of or had knowledge of ***the*** [~~said~~] acts [~~or other similar acts~~] and after [~~such~~] approval or knowledge retained the benefit, proceeds, profits, or advantages accruing from ***the*** [~~said~~] acts [~~or otherwise ratified said acts~~].

(6) Any licensee or other person in interest ***who is*** [~~being~~] dissatisfied with a final order of the [~~department approved by the~~] commission may appeal to the Franklin Circuit Court and to the Court of Appeals in the manner provided by KRS 281.780 to 281.785.

Section 5. KRS 190.046 is amended to read as follows:

(1) Notwithstanding the terms of any franchise agreement, each motor vehicle manufacturer or distributor, doing business within this Commonwealth, shall assume all responsibility for and shall defend, indemnify, and hold harmless its motor vehicle dealers against any loss, damages, and expenses, including legal costs, arising out of complaints, claims, or lawsuits resulting from warranty defects, which shall include structural or production defects; [~~or~~] defects in the assembly; [~~,~~] or design of motor vehicles, parts, accessories; [~~,~~] or other functions beyond the control of the dealer, including without limitation, the selection of parts or components for the vehicle. Each manufacturer or distributor shall pay reasonable compensation to any authorized dealer who performs work to repair [~~such~~] defects, or to repair any damage to the manufacturer's or distributor's product sustained while the product is in transit to the dealer, when the carrier or the means of transportation is designated by the manufacturer or distributor. Each manufacturer or distributor shall provide to its dealers with each model year a schedule of time allowances for the performance of warranty repair work and services, which shall include time allowances for the diagnosis and performance of warranty work and service time, and shall be reasonable and adequate for the work to be performed.

(2) In the determination of what constitutes "reasonable compensation" under this section, the principal factor to be considered shall be the amount of money ***that*** [~~which~~] the dealer is charging its other customers for the same type service or repair work. [~~However,~~] Other factors ***may be considered including:*** [~~such as~~] the compensation being paid by other manufacturers or distributors to their dealers for [~~such~~] work; and the prevailing amount of money being paid or charged by the dealers in the city or community in which the authorized dealer is doing business [~~may be considered~~]. "Reasonable compensation" ***shall include*** [~~comprehends~~], diagnosing the defect; [~~,~~] repair service; [~~,~~] labor; [~~,~~] parts and administrative and clerical costs. ***The*** [~~, and in no event shall such~~] compensation of a dealer ***shall not*** be less than the amount charged by ***the*** [~~such~~] dealer for like services and parts, ***which*** [~~(~~]minimum compensation for parts shall be dealer cost plus thirty percent (30%) gross profit; [~~)~~] to retail customers for non-warranty service and repairs, or less than the amounts indicated for [~~such~~] work on the schedule of warranty compensation required to be filed by the manufacturer with the ***commission*** [~~department~~] as a part of the manufacturer's license application by KRS 190.030.

(3) A manufacturer or distributor shall not require unreasonable proof to establish "reasonable compensation" or delay reimbursement of payment to the dealer beyond thirty-five (35) days from the submission by mail of a valid warranty claim. If a valid warranty claim is not paid within forty-five (45) days, the dealer may give the manufacturer one (1) copy of the dealer's related repair order bearing the customer's signature, the dealer's signature, the date the work was completed, the vehicle serial number or identification number, the odometer reading, the date of delivery of the vehicle, a list of the parts and supplies used if applicable, a brief general description of the defect, and the amount of money charged the manufacturer or distributor for the work. If, after fifteen (15) days, the valid warranty claim is still not paid, the dealer may deduct a like amount from any moneys due or owing to the manufacturer or distributor. The dealer ***shall*** [~~must~~] hold the defective part [~~or parts~~] for inspection by the manufacturer or distributor for a period of time not to exceed ninety (90) days from the time the warranty claim is submitted. The manufacturer or distributor shall not unfairly discriminate against any dealer in the application of warranty, policy, and procedure or deny any valid warranty order claim submitted by a franchised dealer within thirty (30) days from completion of the work or longer if existing manufacturer-dealer relationships apply. Upon the written request of the dealer for valid reasons, the manufacturer ***shall*** [~~will~~] extend the submission time. Any dispute between the dealer and the manufacturer or distributor shall be subject to the provisions of KRS 190.057.

Section 6. KRS 190.053 is amended to read as follows:

If a [~~Whenever any~~] licensee is found to be violating any of the provisions of this chapter, or any ***administrative*** [~~order or rule or~~] regulation ***promulgated*** [~~prescribed~~] by the ***commission*** [~~department~~] pursuant thereto, or is found to be permitting any of its salesmen to violate any of the provisions of this chapter, or any ***administrative*** [~~order, or rule or~~] regulation ***promulgated*** [~~prescribed~~] by the ***commission*** [~~department~~] pursuant thereto, the ***commission*** [~~department~~] may, upon complaint or upon its own motion, issue its order to ***a*** [~~such~~] licensee notifying it to appear before the ***commission*** [~~department~~] at a fixed time and place; at which time and place the ***commission*** [~~department~~] shall have a hearing. If the [~~department and the~~] commission ***is*** [~~are~~]

satisfied, after a hearing, that the licensee has violated or refused to observe any of the provisions of this chapter, or any order, or ***administrative*** [~~rule or~~] regulation of the ***commission*** [~~department~~], or has permitted any of its salesmen to violate any of the provisions of this chapter or any order, or ***administrative*** [~~rule or~~] regulation ***promulgated*** [~~prescribed~~] by the ***commission*** [~~department~~] pursuant thereto, the ***commission*** [~~department~~] may suspend or revoke the license of ***the*** [~~such~~] licensee. The renewal by the ***commission*** [~~department~~] of any license shall not be construed to be a waiver or condonement of any violation which occurred prior to [~~such~~] renewal and shall not prevent subsequent proceedings against the licensee ***for the violation*** [~~therefor~~].

Section 7. KRS 190.057 is amended to read as follows:

(1) Hearings under this chapter shall be heard by the commission and may be held at the most convenient place for the parties and witnesses. The hearing shall be conducted by an examiner of the commission. After the final conclusion of the hearing, the examiner shall make a report and recommended order ***containing*** [~~, which report and recommended order shall contain~~] a finding of fact and a conclusion of law. ***A*** [~~, and such~~] report and recommended order shall be served by mail upon each of the parties. Any of the parties [~~thereto~~] may, within twenty (20) days after the date of the report and recommended order, file and serve exceptions [~~thereto~~] and reasons in support ***of them*** [~~thereof~~]. Replies may be served and filed within twenty (20) days after the date of the filing of exceptions. Thereafter the ***commission*** [~~commissioner~~] shall consider and pass upon the case. When passed upon by and approved by the commission, the decision shall be served by mail upon all parties and shall be a final order of the commission. The report and recommended order ***shall*** [~~will~~] not become the decision of the commission through failure to file exceptions, but in the absence of exceptions ordinarily ***shall*** [~~will~~] be taken by the commission as the basis of its decision.

(2) A final order may be withdrawn, set aside, or amended, ***if*** [~~provided, however, that such~~] action is taken between the date of the rendition of the final order and the expiration of the time for appeal or until an appeal has been taken.

Section 8. KRS 190.058 is amended to read as follows:

(1) The Motor Vehicle Commission is hereby created as an agency of the Commonwealth to carry out the functions and duties conferred upon it by this section.

(2) The commission shall consist of twelve (12) members, eleven (11) of whom are to be appointed by the Governor and each of whom ***shall*** [~~must~~] reside in a separate federal congressional district, except the commissioner, the members representing manufacturers, dealers, and consumers, and one (1) other, who shall serve as the twelfth member of the commission. No more than seven (7) members of the commission shall belong to any one (1) political party, and four (4) members shall be new motor vehicle dealers and four (4) members shall be used motor vehicle dealers. Of those members of the commission who are new motor vehicle dealers, no more than two (2) shall represent the same automobile manufacturer as a franchise dealer.

(3) (a) Members of the commission ***shall*** qualify by taking the constitutional oath of office which shall, with the certificate of appointment, be evidence of the authority of the member to act.

(b) Each member of the commission shall be entitled to two hundred dollars ($200) per day for each day actually engaged in the duties of the office, including time spent in necessary travel to and from meetings and otherwise, together with all travel and other necessary expenses incurred while performing official duties.

(4) ***Members shall be appointed*** [~~Upon July 15, 1982, the Governor shall appoint two (2) members of the board to serve for a period of one (1) year; three (3) members to serve for a period of two (2) years; and three (3) members to serve for a period of three (3) years. Thereafter, their successors in office shall be appointed by the Governor~~] for a term of three (3) years each. One (1) member shall be a representative of an automobile manufacturer. One (1) member shall be a representative of automobile wholesalers. One (1) member shall be a person with no direct financial interest in the industry.

(5) The commission shall hold a regular annual meeting in September of each year and elect a chairman and vice chairman to serve for the ensuing year. The commission shall have regular meetings as the majority of the members specifies and special meetings at the request of any five (5) members. Reasonable notice of all meetings shall be given as commission rules prescribe. A majority of the commission, including the public member, shall constitute a quorum.

(6) The commission shall employ an executive director who shall be the chief administrative officer of the commission. ***He***[~~, who~~] shall maintain all minutes of the commission proceedings and [~~who~~] shall be custodian of the files and records of the commission. The executive director shall employ the staff authorized by the commission. The commission may, by interagency contract, utilize assistance of any state agency.

(7) The commission shall deposit all moneys received by it from license fees paid under this law with the State Treasurer, who shall keep them in a separate fund to be known as the "Motor Vehicle Commission Fund." The commission may use this fund for salaries, wages, per diem, professional and consulting fees, grants, loans, contracts, travel expenses, equipment, office rent and expenses, and other necessary expenses incurred in carrying out its duties under this section as provided by legislative appropriation. [~~At the close of each biennium, the unexpended balance remaining in the motor vehicle commission fund shall be transferred to the general fund.~~]

(8) The commission shall administer the provisions of this section, establish the qualifications of manufacturers and dealers, and insure that the distribution and sale of new motor vehicles is conducted as provided ***in this chapter*** [~~herein~~], and under the commission's ***administrative regulations*** [~~rules~~].

(9) The commission ***may*** [~~is authorized to~~] issue orders and make determinations [~~as may be~~] necessary to carry out the provisions of KRS 190.010 to 190.080. The orders shall set forth the findings on which the order is based, and the reason for the particular action taken. All orders shall be signed by the chairman or vice chairman and attested by the executive director.

(10) The commission may hold hearings, administer oaths, receive evidence, issue subpoenas to compel the attendance of witnesses and the production of documents related to the hearing, and make findings of fact and decisions in administering the provisions of KRS 190.010 to 190.080 and the ***administrative regulations*** [~~rules~~], orders, and other actions of the commission.

(11) The commission may cause legal proceedings to be instituted to enforce the provisions of this section and its ***administrative regulations*** [~~rules~~], orders and decisions. ***If*** [~~Should~~] it ***appears*** [~~appear~~] from any investigation of a possible violation of any other law or ***administrative*** regulation that a violation of the provisions of KRS 190.010 to 190.080 may have occurred, the matter shall be referred to the commission to determine whether proceedings under KRS 190.010 to 190.080 are appropriate. The commission may make contracts and execute instruments necessary or convenient to the exercise of its power or performance of its duties.

(12) The availability of administrative procedures under this section shall not preclude the utilization of other remedies for violation of the provisions of this chapter which are available to the affected parties, including actions for injunctive relief.

Section 9. KRS 190.067 is amended to read as follows:

If [~~The Department of Vehicle Regulation shall serve as the enforcement agency of the commission in all respects and shall perform such services and duties as it may be legally called upon to do. In addition to the other powers granted to the department, it shall have the powers of arrest for violation of the provisions of this chapter. In the event~~] the commission fails to perform any of its official duties within the time prescribed ***in this chapter*** [~~herein~~], the department may perform ***the*** [~~said~~] duties and certify its actions to the commission.

Section 10. KRS 190.071 is amended to read as follows:

(1) It shall be a violation of this section for any new motor vehicle dealer:

(a) To require the purchaser of a motor vehicle as a condition of sale and delivery [~~thereof~~], to also purchase special features, appliances, accessories, or equipment not desired or requested by the purchaser, unless ***the*** [~~such~~] features, appliances, accessories, or equipment are the type which are ordinarily installed on the vehicle by the manufacturer or distributor when the vehicle is received or acquired by the dealer.

(b) To advertise, display, represent, or sell as a new or unused motor vehicle any vehicle which has been operated for demonstration purposes, or which is otherwise a used motor vehicle.

(c) To sell or offer for sale as a new or unused motor vehicle any motor vehicle for which he cannot secure for the purchaser ***the*** [~~thereof such~~] new car warranty ***that*** [~~as~~] may be extended by the manufacturer of the vehicle to purchasers of one (1) of its new vehicles, unless the fact that the vehicle being sold without a manufacturer's warranty is communicated to the purchaser, and disclosed prominently in writing.

(d) To fail to have an established place of business which is used, or will be used, primarily for the purpose of selling, buying, displaying, repairing, or servicing motor vehicles.

(e) To use false or fraudulent representations in connection with the operation of the new motor vehicle dealership.

(f) To fail to reasonably supervise his agents, salesmen, or employees.

(g) To transfer a new motor vehicle with a manufacturer's statement of origin to a motor vehicle dealer who does not have either a valid service agreement or franchise from the particular line, make, manufacturer, distributor, factory branch or factory representative.

(2) Any motor vehicle dealer who fails to comply with this section or the provisions of KRS Chapter 186 ***or 186A***, and any motor vehicle dealer other than a wholesale auto dealer who is found by the commission to have acquired a used motor vehicle for cash, trade-in, or in any other manner and fails to have the registration transferred to him prior to the time the vehicle is sold or otherwise transferred to another person shall be subject to suspension, fine or revocation of his motor vehicle dealer's license.

HB 731, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) (a) Upon application to the county clerk of the county of his residence, any member of a masonic order shall be issued a five (5) year license plate in the same form and character as license plates authorized by law to be used upon similar private vehicles registered in Kentucky, except that the license plates shall bear the inscription "Mason", a registration number, and an appropriate standardized insignia. Each application shall be accompanied by proof of current membership in a masonic order as furnished by the applicant and the payment of a fee of twenty-five dollars ($25).

(b) Annually thereafter, upon application to the county clerk of the county of his residence, together with proof of current membership in a masonic order and payment of an eleven dollar and fifty cent ($11.50) registration fee, the clerk shall issue a current year renewal decal to the applicant to be affixed to the masonic order license plate originally issued to the applicant.

(2) Upon the sale, transfer, or termination of lease of a vehicle licensed as authorized by subsection (1) of this section, the owner or lessee shall remove the masonic order license plate and return it and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of an eleven dollar and fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee. When the plate has been presented to the clerk, he shall reissue it free of any charge by the Transportation Cabinet. Upon payment of a one dollar ($1) fee to the clerk, the plate may be used on any other vehicle owned or leased by the same person who purchased the masonic order license plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk who shall forward the license plate to the Transportation Cabinet.

The Committee Amendment No. 1 to **HB 731** is as follows:

Amend printed copy of **HB 731** on page 1, line 13, after the "." by inserting the following: "***The cabinet shall have received at least five hundred (500) requests before it shall be required to print masonic order license plates.***"

HB 905, AN ACT relating to motorcycle safety education, and raising revenues incidental thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall establish a motorcycle safety education program. The program shall provide for instructor training courses, instructor approval, and rider training courses for novice riders that shall be held at locations throughout the state. The program may provide for the following:

(a) Rider training courses for experienced riders;

(b) Activities to increase the awareness of a motorcyclist's knowledge of the effects of alcohol and drug use;

(c) Driver improvement efforts;

(d) Licensing improvement efforts;

(e) Program promotion activities;

(f) Enhancement of the public's awareness of motorcycles; and

(g) Enhancement of motorcycle safety through education.

(2) The Transportation Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the development of standards for, and the administration of, a motorcycle safety education program. Standards for the motorcycle rider training courses, shall include standards for course content, delivery, curriculum, materials, student evaluation, and the training and approval of instructors. Standards shall meet or exceed established national standards for motorcycle rider training courses prescribed by the Motorcycle Safety Foundation.

SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The program shall offer motorcycle rider training courses designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the proper operation of a motorcycle. The courses shall be taught by instructors approved under Section 3 of this Act and shall include no fewer than eight (8) hours of hands-on instruction for a novice course.

(2) Rider training courses shall be open to any resident of the state who either holds a current valid driver's license for any classification or who is eligible for a motorcycle instruction permit.

(3) The cabinet shall issue certificates of completion in a manner and form prescribed by administrative regulations promulgated pursuant to KRS Chapter 13A to persons who satisfactorily complete the requirements of a motorcycle rider training course offered or authorized by the state program.

(4) The cabinet may exempt applicants for a motorcycle driver's license or endorsement from the licensing skill test if they present satisfactory evidence of successful completion of an approved rider training course that includes a similar test of skill.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall approve instructors for the motorcycle rider training courses. A person shall not be approved as an instructor unless the person meets the requirements of this section, administrative regulations of the cabinet, and unless the person holds a currently valid instructor certification issued by the Motorcycle Safety Foundation.

(2) The program shall offer instructor training courses to prepare instructors to teach the motorcycle rider training courses. Successful completion of the instructor training course shall require the participant to demonstrate knowledge of the course material, knowledge of proper motorcycle operation, motorcycle riding proficiency, and the necessary aptitude for instructing students. A person shall not be approved as an instructor unless the person has successfully completed the instructor training course or an equivalent course offered in another state.

(3) The cabinet shall establish additional requirements for the approval of instructors, including but not limited to, the following:

(a) The person shall have a high school diploma or its equivalent;

(b) The person shall be at least eighteen (18) years of age and hold a valid motorcycle driver's license or endorsement;

(c) The person shall have at least two (2) years of recent motorcycle riding experience;

(d) The person's driver's license shall not have been suspended or revoked at any time during the preceding two (2) years or at any time within the preceding five (5) years for any alcohol or drug related offense; and

(e) The person shall not have been convicted of a felony.

(4) In the case of a nonresident, the cabinet shall obtain and review the person's driving record from the state where the person is licensed prior to approval or reapproval of the person as an instructor.

(5) The cabinet shall annually review the status of all approved instructors and shall withdraw approval from any instructor who is no longer qualified under the requirements of this section. The cabinet shall immediately withdraw approval of an instructor when it receives adequate notice of any disqualification.

SECTION 4. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet may enter into contracts with public or private entities for course delivery and for the provision of services or materials necessary for implementation of the program.

(2) The cabinet may offer motorcycle rider training courses directly and may approve courses offered by independent public or private entities as authorized program courses if they are administered and taught in full compliance with standards established for the state program.

(3) The cabinet may establish by administrative regulation reasonable enrollment fees to be charged for persons who participate in motorcycle rider training courses offered by the cabinet and for persons who participate in approved courses offered by independent public or private entities.

(4) The cabinet may utilize available program funds to defray its own expenses in offering motorcycle rider training courses and may reimburse entities that offer approved courses for the expenses incurred in offering the courses to minimize course enrollment fees charged to the students.

SECTION 5. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The motorcycle safety education program fund is established in the state road fund and appropriated on a continual basis to the cabinet to administer the moneys. Money in the fund shall be used for administration and implementation of the program, including reimbursement of entities that offer approved motorcycle rider education courses.

(2) If at the end of each fiscal year, money remains in the fund it shall be retained in the fund and shall not revert to the road fund. The interest and income earned on money in the fund, after deducting any applicable charges, shall be credited to the motorcycle safety education fund.

(3) The following revenue shall be credited to the fund:

(a) Four dollars ($4) of the annual registration fee for each registered motorcycle as provided in Section 7 of this Act;

(b) Four dollars ($4) of the application fee for a motorcycle instruction permit as provided in Section 8 of this Act; and

(c) Four dollars ($4) of the fee for each original or renewal motorcycle driver's license or endorsement as provided in Section 8 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

The cabinet shall prepare biennially a report on the program to be submitted to the Governor, and the Legislative Research Commission; and made available to the public for review during the cabinet's normal business hours. The report shall include the number and location of courses offered, the number of instructors approved, the number of students trained in various courses, other information about program implementation as the cabinet shall deem appropriate, and an assessment of the overall impact of the program on motorcycle safety in the state. The report shall also provide a complete accounting of revenue receipts of the motorcycle safety education program fund and of all moneys expended under the program.

Section 7. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, and pickup trucks and passenger vans which are not being used on a for-hire basis shall be eleven dollars fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be ***nine dollars ($9)*** [~~five dollars ($5)~~], and for each sidecar attachment, ***seven dollars ($7)*** [~~three dollars ($3)~~].

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less, except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) of this section, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) of this section, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	882.00
62,001-73,280	1,125.00
73,281-80,000	1,260.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employees may have the truck or bus registered as a school bus and obtain a license for eleven dollars fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high, and of a conspicuous color, and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle with a gross weight of fourteen thousand (14,000) pounds or less on which a wrecker crane or other equipment suitable for wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecker crane or other equipment suitable for wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in wrecker service. If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, or anywhere within a county containing an urban-county government, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay seventy-five percent (75%) of the fee set forth in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready-mixed concrete from the point at which such concrete blocks or ready-mixed concrete is produced to a construction site where such concrete blocks or ready-mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready-mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof, shall pay seventy-five percent (75%) of the fee set out in subsection (3) of this section and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2), may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(11) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(12) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(13) (a) The Department of Vehicle Regulation is authorized to negotiate and execute an agreement or agreements for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate administrative regulations concerning the registration of motor vehicles under any agreement or agreements

made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1). Title to such vehicle may be transferred; however title without proper registration shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration, as provided in paragraph (a) of this subsection, may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate administrative regulations in accordance with this section.

(14) Any person seeking to obtain a special license plate for an automobile that has been provided to him pursuant to an occupation shall meet both of the following requirements:

(a) The automobile shall be provided for the full-time exclusive use of the applicant; and

(b) The applicant shall obtain permission in writing from the vehicle owner or lessee on a form provided by the cabinet to use the vehicle and for the vehicle to bear the special license plate.

Section 8. KRS 186.531 is amended to read as follows:

(1) The cost of operators' licenses[~~, motorcycle operators' licenses~~] and permits shall be as follows:

(a) The fee for ***a*** [~~any~~] two (2) year original or renewal ***motor vehicle*** license ***shall be four dollars ($4)***[~~, including motorcycle operator's license, shall be four dollars ($4), except that the fee for a combination motor vehicle-motorcycle operator's license shall be seven dollars ($7)~~]. The fee for ***a*** [~~any~~] four (4) year original or renewal ***motor vehicle*** license[~~, including motorcycle operator's license,~~] shall be eight dollars ($8)[~~, except that the fee for a four (4) year combination motor vehicle-motorcycle operator's license shall be fourteen dollars ($14)~~];

(b) ***The fee for a two (2) year original or renewal motorcycle operator's license shall be eight dollars ($8) and a combination motor vehicle-motorcycle operator's license shall be eleven dollars ($11). The fee for a four (4) year original or renewal motorcycle operator's license shall be twelve dollars ($12) and a combination motor vehicle-motorcycle operator's license shall be eighteen dollars ($18);***

(c) The fee for ***an*** [~~any~~] instruction permit ***for a motor vehicle*** shall be one dollar ($1) plus one dollar ($1) for preparing and acknowledging ***the*** [~~such~~] application;

(d) The fee for an instruction permit for a motorcycle shall be five dollars ($5) plus one dollar ($1) for preparing and acknowledging the application;

(e)[~~(c)~~] The fee for a duplicate license shall be two dollars ($2);

(f)[~~(d)~~] The fee for an identification card shall be four dollars ($4). The fee for a duplicate identification card shall be two dollars ($2); and

(g)[~~(e)~~] Any applicant under the age of twenty-one (21) who meets the requirements for the issuance of a valid driver's license shall be issued a license valid until the date ***the*** [~~on which said~~] applicant attains the age of twenty-one (21). The fee for the license shall be two dollars ($2) per year for the requisite number of years as set forth herein. The applicant shall have thirty (30) days after his twenty-first birthday in which to renew his driver's license.

(2) The circuit clerk shall deposit in the state treasury to the credit of the general fund except as provided in paragraph (f) of this subsection fees pertaining to applications and license fees in the following manner:

(a) One dollar and seventy-five cents ($1.75) of any original and renewal license, except that the fee for a combination motor vehicle-motorcycle operator's license shall be three dollars ($3);

(b) One dollar ($1) for issuance of any instruction permit;

(c) One dollar ($1) for preparing and acknowledging an application for an instruction permit;

(d) One dollar and twenty-five cents ($1.25) for preparing and acknowledging an application for a duplicate;

(e) One dollar and twenty-five cents ($1.25) for each identification card; and

(f) For each original or renewal license one dollar ($1) shall be credited to a special account within the state road fund and shall be used by the Transportation Cabinet exclusively for the purpose of issuing a photo license. ***For each original or renewal motorcycle operator's license and each motorcycle instruction permit four dollars ($4) shall be credited to a special account within the state road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to Section 5 of this Act.***

(3) The remainder of all fees, and other moneys collected by the Circuit Court clerk shall be forwarded to the state.

(4) The photo licenses shall be in use and the procedures prescribed by KRS 186.412 and 186.413 shall be fully implemented by January 1, 1975.

Section 9. KRS 186.535 is amended to read as follows:

(1) From the fee for each two (2) year original or renewal operator's license, twenty-five cents ($0.25) shall be credited to a special account within the road fund, and shall be used exclusively by the Transportation Cabinet for the purpose of expanding the State Driver Education Program, and twenty-five cents ($0.25) shall be paid to the fiscal court of the county where the driver's license is issued to be used by the fiscal court for county road purposes.

(2) From the fee for each four (4) year original or renewal operator's license, fifty cents ($0.50) shall be credited to a special account within the road fund, and shall be used exclusively by the transportation cabinet for the purpose of expanding the state driver education program, and fifty cents ($0.50) shall be paid to the fiscal court of the county where the driver's license is issued to be used by the fiscal court for county road purposes.

(3) From the fee for each annual registration of a motorcycle and motorcycle sidecar attachments, pursuant to Section 7 of this Act, four dollars ($4) shall be credited to a special account within the road fund and shall be used exclusively for the purpose of the motorcycle safety education program fund pursuant to Section 5 of this Act.

HJR 130, A JOINT RESOLUTION renaming Kentucky Highway 313 the Joe Prather Highway.

WHEREAS, Joseph W. Prather served the people of Hardin County honorably as a member of both the Kentucky House of Representatives and the Kentucky Senate; and

WHEREAS, Joseph W. Prather has demonstrated his leadership ability serving as President Pro Tem of the Kentucky Senate and as Chairman of the Kentucky Democratic Party; and

WHEREAS, Joseph W. Prather currently serves the people of Kentucky as Secretary of the Finance and Administration Cabinet;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That Kentucky Highway 313 in Hardin County be renamed the Joe Prather Highway.

Section 2. That a copy of this Resolution be forwarded to the Secretary of the Transportation Cabinet and to Joseph W. Prather, Secretary of the Finance and Administration Cabinet.

HJR 147, A JOINT RESOLUTION directing the Interim Joint Committee on Transportation to study the needs of the automobile recycling industry in the state of Kentucky.

WHEREAS, the General Assembly recognizes the sizeable contribution the recycling industry provides the state including employment opportunities and numerous tax dollars; and

WHEREAS, the industry has voiced its concern regarding the limited and sometimes congestive procedures by which it is regulated; and

WHEREAS, the issue of branding a damaged automobiles title has been a controversial and often avoided issue over the years and has become a major concern of both consumers and the recycling industry; and

WHEREAS, a study of this nature could serve to bring together all parties involved with this process, including representatives from the insurance industry and the Transportation Cabinet, in order to solve existing problems seen to exist by the recycling industry.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Interim Joint Committee on Transportation be directed to study the needs of the automobile recycling industry and make any reports or recommendations to the General Assembly before August, 1993.

Section 2. That copies of this resolution be sent to the Chairman of the Interim Joint Committee on Transportation, the Commissioner of the Department of Insurance, the Automobile Recyclers Association, and the Secretary of the Transportation Cabinet.

The Committee Amendment No. 1 to **HJR 147** is as follows:

Amend printed copy of **HJR 147** on page 2, after line 8, insert the following:

"Section 3. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission."

HJR 148, A JOINT RESOLUTION directing the Transportation Cabinet to name the bridge on U.S. 23 in Pike County that crosses Shelby Creek the Lawrence Branham Bridge.

WHEREAS, Lawrence Branham has tirelessly served the people of Pike County through his years of civic involvement;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the bridge located on U.S. 23 in Pike County between Ford's Branch and Shelby Creek and which crosses Shelby Creek be named the Lawrence Branham Bridge.

Section 2. That a copy of this resolution be forwarded to the Secretary of the Transportation Cabinet.

SB 70, AN ACT relating to special license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the General Assembly to recognize the special value of historic vehicles to the Commonwealth, and also to recognize that historic vehicles, because of their limited use and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "historic vehicle" shall mean all motor vehicles ***twenty-five (25)*** [~~thirty (30)~~] years old or older, which are used primarily for exhibition in shows, parades, tours and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the Transportation Cabinet. ***The*** [~~Such~~] registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of a fee of fifty dollars ($50) and an application in accordance with regulations issued by the Transportation Cabinet, the secretary of the Transportation Cabinet shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in

the judgment of the secretary of the Transportation Cabinet, will best advertise, popularize, and promote the Commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number "100" and continue in a consecutive numerical sequence.

(5) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall be assigned and transferred to the new owner on the records of the Transportation Cabinet upon receipt of an application in accordance with regulations issued by the cabinet and payment of a fee of two dollars ($2).

(6) The secretary of the cabinet may make [~~such~~] reasonable rules and regulations as he deems necessary to further the purpose of this section.

The Committee on Health and Welfare reported **HB 193**, with Committee Substitute and Committee Amendment attached thereto, **HB 447**, with Committee Substitute attached thereto, and **HB 460**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 193, AN ACT relating to reporting of disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 214.420 or any other statute to the contrary notwithstanding, any person who has a sexually transmitted disease as defined in KRS 214.410 or who has a reportable communicable disease as defined in KRS 214.460, who knows of that fact or who has been informed of that fact by medical personnel shall communicate to first aiders, firefighters, peace officers, emergency medical technician first responders, emergency medical technicians, paramedics, nurses, physicians, and other licensed health care professionals the fact that he has a sexually transmitted disease or communicable disease and what the disease is prior to his treatment for any illness, injury, or any emergency requiring medical care if he is physically able to do so. The provisions of this section shall not apply to a person who is unconscious, semiconscious, or otherwise physically unable to communicate at the time the care is to be rendered. The notice shall be confidential and shall not be communicated except to emergency and health care personnel with a need to know.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 214.420 or any other statute to the contrary notwithstanding, if a patient in a health care facility, as defined by KRS 216B.015, is diagnosed as having a sexually transmitted disease, as defined in KRS 214.410 or a communicable disease which is reportable pursuant to KRS 214.460, the health care facility shall notify in writing the person or agency in charge of emergency medical services, peace officers, fire, or other emergency personnel who transported the patient to the facility, that they transported a person who had been previously or subsequently diagnosed as being infected with a sexually transmitted disease or communicable disease. The notice shall include the name of the disease, the name of the person, and his address. The notice shall be confidential and shall not be disclosed to any person other than the affected personnel.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The provisions of KRS 214.420 or any other statute to the contrary notwithstanding, if a health care facility, as defined in KRS 216B.015, is transferring a patient from the health care facility to another location and that patient has a sexually transmitted disease, as defined in KRS 214.410 or a communicable disease which is reportable pursuant to KRS 214.460, the health care facility shall notify the emergency medical services or other personnel conducting the transfer that the patient has a sexually transmitted disease or communicable disease, what the disease is, and the name of the patient. The notice shall be confidential and shall not be disclosed to any other person other than the affected personnel.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

No person to whom the name or condition of a patient having a sexually transmitted disease, as defined in KRS 214.410, or communicable disease, which is reportable pursuant to KRS 214.460, shall disclose to any person not authorized to know the information pursuant to Section 1, 2, or 3 of this Act, the name, address, or disease of a person who has a sexually transmitted disease or communicable disease. This provision shall not apply to placing this information on ambulance run forms, paramedic notes, or other medical records.

Section 5. KRS 214.990 is amended to read as follows:

(1) Every head of a family who wilfully fails or refuses and every physician who fails or refuses to comply with KRS 214.010 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) for each day he neglects or refuses to report. Repeated failure to report is sufficient cause for the revocation of a physician's certificate to practice medicine in this state.

(2) Any owner or person having charge of any public or private conveyance, including watercraft, who refuses to obey the rules and regulations made by the Cabinet for Human Resources under KRS 214.020 shall, for each offense, be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) or imprisoned in the county jail for not less than ten (10) nor more than sixty (60) days, or both.

(3) Any physician or other person legally permitted to engage in attendance upon a pregnant woman during pregnancy or at delivery who fails to exercise due diligence in complying with KRS 214.160 and 214.170 shall be fined not less than five dollars ($5) nor more than ten dollars ($10).

(4) Any person who violates any of the provisions of KRS 214.280 to 214.310 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense, or imprisoned in the county jail for not less than three (3) months nor more than six (6) months, or both.

(5) Any person who violates any provision of KRS 214.034 or KRS 158.035 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than sixty (60) days, or both.

(6) Any person who violates any provision of KRS 214.420 shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100). Each violation shall constitute a separate offense.

(7) Any person who knowingly violates any provision of KRS 214.452 to 214.466 shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

(8) Any person who knowingly violates any provision of Sections 1, 2, or 3 of this Act is guilty of a Class D felony. Each violation shall constitute a separate offense.

(9) Any person who knowingly violates Section 4 of this Act is guilty of a Class A misdemeanor for the first offense, and a Class D felony for each subsequent offense. Each violation shall constitute a separate offense.

The Committee Substitute to **HB 193** is as follows:

HB 193, AN ACT relating to reporting of disease.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The provisions of any other statute to the contrary notwithstanding, any person who has a blood borne communicable disease as defined by administrative regulation of the Cabinet for Human Resources or who has a reportable airborne communicable disease as defined by administrative regulation of the Cabinet for Human Resources, who knows of that fact or who has been informed of that fact by medical personnel shall communicate to first aiders, firefighters, peace officers, emergency medical technician first responders, emergency medical technicians, paramedics, nurses, physicians, and other licensed health care professionals the fact that the person has a communicable disease and what the disease is prior to the person's treatment by those personnel for any illness, injury, or any emergency requiring medical care if the person is physically able to do so. The provisions of this section shall not apply to a person who is unconscious, semiconscious, or otherwise physically unable to communicate at the time the care is to be rendered. The notice shall be confidential and shall be treated according to the principle of confidentiality as described in this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

No person to whom the name or condition of a patient with a communicable disease, is disclosed pursuant to Section 1 of this Act shall further disclose the information to any entity not permitted to receive similar information from a health department as specified in this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly violates Sections 1 and 2 of this Act is guilty of a Class A misdemeanor for the first offense, and a Class D felony for each subsequent offense. Each violation shall constitute a separate offense.

The Committee Amendment No. 1 to **HB 193** is as follows:

Amend printed copy of **HB 193/HCS** on page 2, by deleting lines 12 through 17 in their entirety.

HB 447, AN ACT relating to supported living services for persons with a disability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context otherwise requires:

(1) "Mental impairment" includes mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(2) "Person with a disability" means someone with a physical or mental impairment and includes individuals who have a record or history of an impairment, or are regarded as having a physical or mental impairment that substantially limits one (1) or more major life activities;

(3) "Physical impairment" means any physiological disorder or corrective, cosmetic disfigurement, or an anatomical loss affecting one (1) or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine;

(4) "Secretary" means the secretary of the Cabinet for Human Resources;

(5) "Substantial limitation of a major life activity" includes limiting such things as walking, talking, seeing, hearing, caring for oneself, or working;

(6) "Supported living" means a broad category of highly flexible, individualized services designed and coordinated in such a manner as to provide the necessary assistance to do the following:

(a) Provide the support necessary to enable a person who is disabled to live in a home of the person's choice which is typical of those living arrangements in which persons without disabilities reside;

(b) Encourage the individual's integrated participation in the community with persons who are members of the general citizenry;

(c) Promote the individual's rights and autonomy;

(d) Enhance the individual's skills and competences in living in the community; and

(e) Enable the individual's acceptance in the community by promoting home ownership or leasing arrangements in the name of the individual or the individual's family or guardian;

(7) "Supported living" does not include the following housing arrangements:

(a) Segregated living models such as any housing situation which physically or socially isolates people with disabilities from general citizens of the community;

(b) Congregate living models such as any housing situation which groups individuals with disabilities as an enclave within an integrated setting;

(c) Any model where the individual, as an adult, does not have maximum control of the home environment commensurate with the individual's disabilities; and

(d) Any single living unit where more than three (3) people with disabilities live;

(8) "Supported living council" means a supported living council appointed by the Governor and recognized by the commissioner of the Department for Mental Health and Mental Retardation Services to approve individual supported living plans; and

(9) "Supported living services" shall not require licensure and include, but are not limited to:

(a) Supported living community resource developers;

(b) Homemaker services;

(c) Personal care services;

(d) In-home training and home management assistance;

(e) Start-up grants;

(f) Monthly stipends;

(g) Transportation;

(h) Home modifications;

(i) Adaptive and therapeutic equipment; and

(j) Personal futures planning by an independent and trained facilitator.

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the State Supported Living Council for services to persons with a disability and their families.

(2) (a) The State Supported Living Council shall be composed of seventeen (17) members. The commissioner of the Department for Mental Health and Mental Retardation Services and the executive director of the Kentucky Housing Corporation shall be ex-officio members.

(b) Fifteen (15) of the members shall be volunteers and shall be appointed by the Governor from a list of nominees in the following manner:

1. Seven (7) of the appointed nominees shall represent family members of persons with a disability. One (1) nominee shall be selected from each of seven (7) lists containing two (2) nominees submitted by each of the following associations: the Kentucky Association for Retarded Citizens, the Association for Persons with Severe Handicaps, the Mental Health Coalition, the Kentucky Coalition for People with Handicaps, Concerned Parents of Hazelwood, Concerned Parents of Oakwood, and Concerned Parents of Outwood;

2. Four (4) of the appointed nominees shall represent individuals with disabilities. One (1) nominee shall be selected from each of four (4) lists containing two (2) nominees submitted by each of the following associations: the Kentucky Campaign for Personal Attendant Care, the Kentucky Association for Retarded Citizens, the Mental Health Coalition, and the Kentucky Coalition for People with Handicaps;

3. Two (2) of the appointed nominees shall represent professionals and providers of services to persons with a disability. One (1) nominee shall be selected from each of two (2) lists containing two (2) nominees submitted by each of the following associations: the Kentucky Association of Private Residential Resources and the Kentucky Association on Mental Retardation; and

4. Two (2) of the appointed nominees shall represent advocates for persons with a disability. One (1) nominee shall be selected from each of two (2) lists containing two (2) nominees submitted by each of the following entities: the Division of Protection and Advocacy and the Kentucky Developmental Disabilities Planning Council.

(3) The appointed members may serve on the council for three (3) years. Members may be reappointed for a maximum of two (2) terms. The Governor shall fill any vacancy occurring in the council in the manner prescribed in subsection (2) of this section.

(4) The Department for Mental Health and Mental Retardation Services shall provide staff assistance to the State Supported Living Council.

(5) The chairman of the State Supported Living Council shall be elected from among the members. A majority of the members shall constitute a quorum.

(6) The State Supported Living Council shall meet as often as necessary but no less frequently than every month.

(7) Each member of the council shall receive compensation for actual and necessary expenses incurred while serving on the council.

SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READAS FOLLOWS:

(1) Upon the appointment by the Governor of all members of the State Supported Living Council, the council shall apply to the commissioner of the Department for Mental Health and Mental Retardation Services for recognition for the receipt of any funds made available to the Cabinet for Human Resources for persons with a disability as defined under Section 1 of this Act.

(2) Upon the members' appointment and for two (2) years after the effective date of this Act, the State Supported Living Council in cooperation with the Department for Mental Health and Mental Retardation Services shall:

(a) Propose a budget and set priorities for fund allocations for supported living services for persons with disabilities within the Commonwealth;

(b) Adopt standards for quality assurance for persons with a disability who receive supported living services in accordance with Sections 1 to 7 of this Act;

(c) Disseminate information about supported living services available under Sections 1 to 7 of this Act;

(d) Review, approve and authorize expenditures for individual plans for supported living services submitted by the consumers and providers of supported living services;

(e) Not impose an individual service plan on any applicant who objects to the plan; and

(f) Encourage the creation of new providers of supported living services.

(3) Beginning three (3) years from the effective date of this Act and every year thereafter, the State Supported Living Council shall hear grievances and provide due process for consumers and providers of supported living services.

(4) The State Supported Living Council may promulgate necessary administrative regulations under KRS Chapter 13A to carry out the purposes of Sections 1 to 7 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There are hereby created local supported living councils which shall represent a single county or a consortium of contiguous counties. Each local supported council shall be composed of seventeen (17) members. The commissioner of the Department for Mental Health and Mental Retardation Services and the Executive Director of the Kentucky Housing Corporation shall be ex-officio members. Fifteen (15) of the members shall be volunteers and, subject to approval by the State Supported Living Council, shall be appointed by the board of directors of each area development district wherein the local supported council is located. The method of submission of the list of nominees, composition, and the representation of the fifteen (15) area development district board appointed members shall be the same as for the State Supported Living Council under Section 2 of this Act. At the end of two (2) years after the effective date of this Act, each county shall be represented by a local supported living council.

(2) At the beginning of the third year after the effective date of this Act and every year thereafter, each local supported living council shall have the authority and duty to review, approve, and authorize expenditures for individual plans for supported living services submitted by consumers and providers of supported living services.

(3) No individual service plan shall be imposed on any applicant who objects to the plan.

SECTION 5. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) Only a person with a disability who is a resident of Kentucky or whose family or guardian is a resident of Kentucky is eligible for supported living services. The person may be living with a family member, independently, or be in a congregate setting and be eligible for services.

(2) Any eligible person with a disability who wants to apply for supported living services may design and request a set of services in the amount, kind, frequency, and duration which is dependent upon the person's individual needs, and is consistent with the definition of supported living under Section 1 of this Act.

(3) Payments for supported living services may be made directly to the person with a disability to enable the person to purchase a service, and to the guardian of the person with a disability, and to the local service provider.

(4) A license shall not be required for any supported living services provided on a contractural basis.

SECTION 6. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There are established standards for quality assurance for eligible individuals who live in the community in supported living arrangements as defined in Section 1 of this Act. The purpose of these standards is to ensure that individuals receive supported living services in a manner that empowers the individuals to exercise choice and enhances the quality of their lives. These standards shall include, but not be limited to, the following:

(a) Control over where and with whom they live;

(b) Opportunities to meaningfully participate in activities in the community with members of the general citizenry;

(c) Personal resources that enable a lifestyle that promotes good health and a sense of well-being;

(d) Enhancement of health through on-going medical and dental care;

(e) Flexible services that change as the person's needs change without the individual having to move elsewhere for services;

(f) Use of generic options such as home health aids, homemaker services, live-in roommates or staff, community counselors, neighbors, family, and friends in the development of a supported living plan;

(g) Well planned and proactive opportunities to determine the kinds and amounts of support desired, with the meaningful participation of the individual, the individual's family or guardian where appropriate, friends, and professionals; and

(h) Home ownership or leasing with the home belonging to the individual, the individual's family, or to a landlord to whom rent is paid.

(2) The individual supported living plan developed by the individual and the individual's family or guardian where appropriate, and the provider, authorized by the supported living council to provide services, shall document assistance and support required by individuals in the following eight (8) areas:

(a) Choice and options;

(b) Personal income;

(c) Housing;

(d) Health;

(e) Safety;

(f) Appearance and hygiene;

(g) Relating to others; and

(h) Activities.

(3) The Department for Mental Health and Mental Retardation in concert with the State Supported Living Council shall promulgate administrative regulations under KRS Chapter 13A, if necessary, to establish the methods of monitoring the quality of service delivery, and procedures for certification of persons and incorporated entities that provide or propose to provide, supported living services.

Section 7. KRS 210.410 is amended to read as follows:

(1) ***Except as provided under subsection (3) of this section,*** the secretary of the Cabinet for Human Resources ***may*** [~~is hereby authorized to~~] make state grants and other fund allocations from the Cabinet for Human Resources to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health and mental retardation programs which shall provide at least the following services:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization or psycho-social rehabilitation services;

(d) Emergency services;

(e) Consultation and education services; and

(f) Mental retardation services.

(2) The services required in subsection (1)(a), (b), (c), (d) and (e) of this section shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1)(a), (b), (c), (d), (e) and (f) shall be available to the mentally retarded. The services required in subsection (1)(b) of this section shall be available to any child age sixteen (16) or older upon request of such child without the consent of a parent or legal guardian, if the matter for which the services are sought involves alleged physical or sexual abuse by a parent or guardian whose consent would otherwise be required.

(3) The secretary and the commissioner of the Department for Mental Health and Mental Retardation Services may make state grants and other fund allocations from the Cabinet for Human Resources to the supported living councils created under Sections 2 and 3 of this Act for services to persons with disabilities and for the purposes authorized under Sections 1 to 7 of this Act.

Section 8. KRS 210.440 is amended to read as follows:

(1) ***Except as provided under subsection (5) of this section,*** at the beginning of each fiscal year, the secretary of the Cabinet for Human Resources shall allocate available funds to the mental health-mental retardation boards or nonprofit organizations for disbursement during the fiscal year in accordance with approved plans and budgets. The secretary shall, from time to time during the fiscal year, review the operations, budgets, and expenditures of the various programs; and if funds are not needed for a program to which they were allocated, he may, after reasonable notice and opportunity for hearing, withdraw ***unencumbered*** [~~such~~] funds [~~as are unencumbered~~] and reallocate them to other programs. He may withdraw funds from any program, or component part thereof, which is not being operated and administered in accordance with its approved plan and budget, and the policies and regulations of the cabinet promulgated pursuant to KRS 210.370 to 210.480.

(2) If the secretary finds at any time that a mental health-mental retardation board or nonprofit organization to which funds have been allocated for the operation of a regional community mental health and mental retardation program is not operating and administering its program in compliance and accordance with the approved plan and budget and the policies and regulations of the cabinet, he may withdraw his recognition of that board or organization as the local authority for the receipt of funds and the operation and administration of regional community mental health and mental retardation programs.

(3) If the secretary finds at any time that an emergency situation exists with regard to the financial stability of any regional mental health-mental retardation board or nonprofit organization, which jeopardizes the continuation of programs and provision of services in the area served by that board or nonprofit organization, he may, other statutes to the contrary notwithstanding:

(a) Appoint a caretaker administrator who shall be authorized to direct the operation and administration of the board or nonprofit organization's community mental health and mental retardation programs including, but not limited to, their financial record keeping, their personnel management operations, and their financial and program reporting; and

(b) Make personnel changes deemed necessary to insure the continued operation of the board or nonprofit organization in compliance with its plan and budget and the policies and regulations of the cabinet.

(4) Any community mental health-mental retardation board to be affected by the provisions of subsections (2) and (3) of this section shall be notified by the secretary of the Cabinet for Human Resources thirty (30) days prior to the anticipated action by the secretary. The notification shall be by means of a letter from the secretary to the chairman of the mental health-mental retardation board in question and shall state the reasons for such anticipated action. Following the notification, the mental health-mental retardation board may:

(a) Comply with the secretary's action without contesting it; or

(b) Apply for a public hearing before a hearing officer appointed by the secretary to show cause why the action should not stand. The application shall be made within seven (7) days of the receipt of the letter from the secretary. The public hearing shall be held within ten (10) days of the application by the mental health-mental retardation board for such hearing. The hearing officer shall submit a written finding of facts, conclusions of law, and recommendation to the secretary within ten (10) days after the date of the hearing. The secretary shall consider the hearing officer's findings and recommendation and make a ruling thereon.

(5) The secretary of the Cabinet for Human Resources may redirect available funds, intended for persons who are disabled, from the mental health-mental retardation boards or a nonprofit organization to the supported living councils created under Sections 2 and 3 of this Act and for the purposes set forth in Sections 1 to 7 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the State Treasury a fund entitled "Supported Living Services Fund." The fund may receive state appropriations, gifts, grants, and federal funds. Sums received by this fund shall not lapse but shall be carried forward into the next fiscal year for the purposes provided in Sections 1 to 7 of this Act.

(2) No more than eight percent (8%) of any funds in the supported living services fund may be used for administrative purposes.

(3) Persons with a disability and their families who are eligible for services under Sections 1 to 7 of this Act may be reimbursed for actual and necessary expenses for travel to present an application for supported living services to the supported living council.

Section 10. Of any funds appropriated for the purposes of Sections 1 to 7 of this Act for the fiscal year ending June 30, 1993, there shall be fifty thousand dollars ($50,000) expended only for emergencies by consumers of services and for extended benefits for persons receiving services and as defined by the State Supported Living Council. Of any funds appropriated for the purposes of Sections 1 to 7 of this Act for the fiscal year ending June 30, 1994, there shall be twenty thousand dollars ($20,000) expended only for emergencies and extended benefits as described in this subsection. For each fiscal year after the fiscal year ending June 30, 1994, two percent (2%) of any funds appropriated for Sections 1 to 7 of this Act, shall be expended only for emergencies and extended benefits as described in this subsection.

The Committee Substitute to **HB 447** is as follows:

HB 447, AN ACT relating to supported living services for persons with a disability.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context otherwise requires:

(1) "Mental impairment" includes mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities;

(2) "Person with a disability" means someone with a physical or mental impairment and includes individuals who have a record or history of an impairment, or are regarded as having a physical or mental impairment that substantially limits one (1) or more major life activities;

(3) "Physical impairment" means any physiological disorder or corrective, cosmetic disfigurement, or an anatomical loss affecting one (1) or more of the following body systems: neurological, musculo-skeletal, special sense organs, respiratory including speech organs, cardiovascular, reproductive, digestive, genito-urinary, hemic and lymphatic, skin and endocrine;

(4) "Substantial limitation of a major life activity" includes limiting such things as walking, talking, seeing, hearing, caring for oneself, or working;

(5) "Supported living" means a broad category of highly flexible, individualized services designed and coordinated in such a manner as to provide the necessary assistance to do the following:

(a) Provide the support necessary to enable a person who is disabled to live in a home of the person's choice which is typical of those living arrangements in which persons without disabilities reside;

(b) Encourage the individual's integrated participation in the community with persons who are members of the general citizenry;

(c) Promote the individual's rights and autonomy;

(d) Enhance the individual's skills and competences in living in the community; and

(e) Enable the individual's acceptance in the community by promoting home ownership or leasing arrangements in the name of the individual or the individual's family or guardian;

(6) "Supported living" does not include the following housing arrangements:

(a) Segregated living models such as any housing situation which physically or socially isolates people with disabilities from general citizens of the community;

(b) Congregate living models such as any housing situation which groups individuals with disabilities as an enclave within an integrated setting;

(c) Any model where the individual, as an adult, does not have maximum control of the home environment commensurate with the individual's disabilities; and

(d) Any single living unit where more than three (3) people with disabilities live;

(7) "Supported living council" means a supported living council appointed by the Governor and recognized by the commissioner of the Department for Mental Health and Mental Retardation Services to approve individual supported living plans;

(8) "Supported living services" include, but are not limited to:

(a) Supported living community resource developers;

(b) Homemaker services;

(c) Personal care services;

(d) In-home training and home management assistance;

(e) Start-up grants;

(f) Monthly stipends;

(g) Transportation;

(h) Home modifications;

(i) Adaptive and therapeutic equipment; and

(j) An individual plan by an independent and trained facilitator; and

(9) "Regional Supported Living Council" means a regional supported living council created under Section 4 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the State Supported Living Council for services to persons with a disability and their families.

(2) (a) The State Supported Living Council shall be composed of ten (10) members. The commissioner of the Department for Mental Health and Mental Retardation Services and the executive director of the Kentucky Housing Corporation or their designees shall be ex-officio members.

(b) Eight (8) of the members shall be volunteers and shall be appointed by the Governor from a list of nominees in the following manner:

1. Three (3) of the appointed members shall represent family members of persons with a disability. One (1) member shall be selected from each of three (3) lists containing two (2) nominees submitted by each of the following associations: the Kentucky Association for Retarded Citizens, the Association for Persons with Severe Handicaps, and the Mental Health Coalition;

2. One (1) of the appointed members shall represent family members of persons with a disability who reside in an intermediate care facility for mental retardation or developmental disabilities. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following associations: Concerned Parents of Hazelwood, Parents and Relatives of Oakwood Facility, and Concerned Parents of Outwood;

3. Two (2) of the appointed members shall be persons with a disability. They shall be selected from a list containing two (2) nominees submitted by each of the following associations: the Kentucky Campaign for Personal Attendant Care, the Kentucky Association for Retarded Citizens, the Mental Health Coalition, and the Kentucky Coalition for People with Handicaps;

4. One (1) of the appointed members shall represent professionals and providers of services to persons with a disability. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following associations: the Kentucky Association of Private Residential Resources and the Kentucky Association on Mental Retardation; and

5. One (1) of the appointed members shall represent advocates for persons with a disability. The nominee shall be selected from a list containing two (2) nominees submitted by each of the following entities: the Division of Protection and Advocacy and the Kentucky Developmental Disabilities Planning Council.

(3) The appointed members may serve on the council for three (3) years. Members may be reappointed for a maximum of two (2) consecutive terms. The Governor shall fill any vacancy occurring in the council in the manner prescribed in subsection (2) of this section.

(4) The Department for Mental Health and Mental Retardation Services shall provide staff assistance to the State Supported Living Council.

(5) The chairman of the State Supported Living Council shall be elected from among the members. A majority of the members shall constitute a quorum.

(6) The State Supported Living Council shall meet as often as necessary but no less frequently than every other month.

SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) Upon the appointment by the Governor of all members of the State Supported Living Council, the council shall recommend to the Department for Mental Health and Mental Retardation Services:

(a) A budget and priorities for fund allocations for supported living services for persons with disabilities within the Commonwealth;

(b) Standards for quality assurance for persons with a disability who receive supported living services in accordance with Sections 1 to 6 of this Act.

(2) The provisions of paragraph (b) of subsection (3) of this section shall be effective upon the members' appointment, and for two (2) years after the effective date of this Act, at which time the provisions of subsection (2) of Section 4 of this Act shall apply.

(3) The State Supported Living Council shall be responsible for:

(a) Disseminating information about supported living services available under Sections 1 to 6 of this Act;

(b) Reviewing, approving, and recommending expenditures for individual plans for supported living services submitted by the consumers and providers of supported living services to a regional community mental health-mental retardation board;

(c) Encouraging the creation of new providers of supported living services; and

(d) Hearing grievances and providing due process for consumers and providers of supported living services.

(4) The State Supported Living Council shall not impose an individual service plan on any applicant who objects to the plan.

(5) The State Supported Living Council may recommend necessary administrative regulations under KRS Chapter 13A to carry out the purposes of Sections 1 to 6 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There are hereby created fourteen (14) regional supported living councils which shall represent regions as established by KRS 210.370 to 210.460. Each regional supported living council shall be composed of eight (8) members who shall be volunteers and shall be appointed by the Governor. The method of submission of the list of nominees, composition, and the representation of the regional supported living council shall be the same as for the appointed members of the State Supported Living Council.

(2) At the beginning of the third year after the effective date of this Act and every year thereafter, each regional supported living council shall have the authority and duty to review, approve, and recommend expenditures for individual plans for supported living services submitted by any person with a disability and eligible providers of supported living services to a regional community mental health-mental retardation board.

(3) No individual service plan shall be imposed by a regional supported living council on any person with a disability who objects to the plan.

SECTION 5. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) Only a person with a disability who is a resident of Kentucky or whose family or guardian is a resident of Kentucky is eligible for supported living services. The person may be living with a family member, independently, or be in a congregate setting and be eligible for services.

(2) Any eligible person with a disability who wants to apply for supported living services may design and request a set of services in the amount, kind, frequency, and duration which is dependent upon the person's individual needs, and is consistent with the definition of supported living under Section 1 of this Act.

(3) Payments for supported living services may be made directly to the person with a disability to enable the person to purchase a service, or to the guardian of the person with a disability, or to the local service provider or to any combination of these parties.

(4) A license shall not be required for any supported living housing arrangement provided on a contractural basis.

SECTION 6. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The Department for Mental Health and Mental Retardation Services in cooperation with the State Supported Living Services Council shall establish standards for quality assurance for eligible persons who live in the community in supported living arrangements as defined in Section 1 of this Act. The purpose of these standards is to ensure that a person with a disability receives supported living services in a manner that empowers the person to exercise choice and enhances the quality of that person's life. These standards shall promote the following:

(a) Control over where and with whom a person with a disability lives;

(b) Opportunities to meaningfully participate in activities in the community with members of the general citizenry;

(c) Enhancement of health through on-going medical and dental care;

(d) Flexible services that change as the person's needs change without the individual having to move elsewhere for services;

(e) Use of generic options such as home health aids, homemaker services, live-in roommates or staff, community counselors, neighbors, family, and friends in the development of a supported living plan;

(f) Well planned and proactive opportunities to determine the kinds and amounts of support desired, with the meaningful participation of the individual, the individual's family or guardian where appropriate, friends, and professionals; and

(g) Home ownership or leasing with the home belonging to the person with a disability, that person's family, or to a landlord to whom rent is paid.

(2) The individual supported living plan shall be developed by the person with a disability and that person's family or guardian where appropriate, and, as appropriate, the proposed or current provider.

(3) The individual supported living plan shall document assistance and support required by the person with a disability in the following eight (8) areas:

(a) Choice and options;

(b) Personal income;

(c) Housing;

(d) Health;

(e) Safety;

(f) Appearance and hygiene;

(g) Relating to others; and

(h) Activities.

(4) The Department for Mental Health and Mental Retardation in concert with the State Supported Living Council shall promulgate administrative regulations under KRS Chapter 13A, if necessary, to establish the methods of monitoring the quality of service delivery.

HB 460, AN ACT relating to safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The rates for basic reparations benefits, first-party medical benefits, underinsured and uninsured motorists coverages on any motor vehicle subject to the provisions of Sections 1 to 3 of this Act shall be reduced by each insurer by not less than twenty percent (20%) as of the effective date of Sections 1 to 3 of this Act from the rates in effect for each insurer immediately prior to the effective date of Sections 1 to 3 of this Act for such coverages. The reduced rates shall remain in effect for at least one (1) year. There shall be no exception to the requirements of this section unless the commissioner finds that the use of the reduced rates required as to any insurer will result in rates which are inadequate under KRS Chapter 304.

(2) Beginning one (1) year after the effective date of Sections 1 to 3 of this Act, due consideration in making rates for motor vehicle insurance shall be given to any reduction in losses or other effects that may be attributable to the use of seat belts, child restraints, or other lifesaving devices. An exhibit detailing these changes and any credits or discounts shall be included in each filing pertaining to insurance on motor vehicles subject to Sections 1 to 3 of this Act.

Section 2. KRS 189.125 is amended to read as follows:

(1) ***Except as otherwise provided in this section, "motor vehicle" as used in this section means every vehicle designed to carry ten (10) or fewer passengers and used for the transportation of persons, but shall not include:***

(a) Motorcycles; or

(b) Motor driven cycles.

(2) No person shall sell any new passenger vehicle in this state nor shall any person make application for registering a new passenger vehicle in this state unless the front or forward seat or seats have adequate anchors or attachments secured to the floor and/or sides to the rear of the seat or seats to which seat belts may be secured.

(3)[~~(2)~~] Any ***driver of a motor vehicle, when transporting a child of forty (40) inches in height or less in a motor vehicle*** [~~resident parent or legal guardian of a child, forty inches (40") in height or less, when transporting his child in a motor vehicle owned by that parent or guardian~~] operated on the roadways, streets and highways of this state, shall have ***the*** [~~such~~] child properly secured in a child restraint system of a type meeting federal motor vehicle safety standards.

(4)[~~(3)~~] As used in this section, "child restraint system" means any device manufactured to transport children in a motor vehicle which conforms to all applicable federal motor vehicle safety standards.

(5)[~~(4)~~] The term "motor vehicle" as used in subsection ***(3)***[~~(2)~~] of this section shall not apply to recreational vehicles or trucks having a tonnage rating of more than one (1) ton.

(6)[~~(5)~~] Failure to wear a child passenger restraint shall not be considered as contributory negligence, nor shall such failure to wear said passenger restraint system be admissible as evidence in the trial of any civil action. ***Failure to wear a seatbelt shall not constitute negligence per se.***

(7)[~~(6)~~] ***No person shall operate a motor vehicle manufactured after 1965 on the public roadways of this state unless the driver and all passengers are wearing a properly adjusted and fastened seat belt, unless the passenger is a child who is secured as required in subsection (3) of this section. The provisions of this subsection shall not a apply to:***

(a) A person who possesses a written statement from a physician or licensed chiropractor that he is unable, for medical or physical reasons, to wear a seat belt; or

(b) A letter carrier of the United States postal service while engaged in the performance of his duties.

(8) A peace officer shall not stop or seize a person nor issue a uniform citation for a violation of subsection (7) of this section if the officer has no other cause to stop or seize the person other than a violation of subsection (7) of this section.

(9) The provisions of subsections (7) and (8) of this section, shall supersede any existing local ordinance involving the use of seat belts. No ordinance contrary to subsections (7) and (8) of this section may be enacted by any unit of local government. The terms of subsection ***(3)***[~~(2)~~] of this section shall not apply if all seat positions in the pickup truck are occupied by persons other than a child of forty (40) inches in height or less.

Section 3. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when

the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days or both. For each subsequent offense occurring within three (3) years, such person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each offense.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100), and upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days, or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violatesa provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125***(3)***[~~(2)~~] shall be fined fifty dollars ($50).

(25) ***Any person who violates the provisions of KRS 189.125(7) shall be fined an amount not to exceed twenty-five dollars ($25).***

(26) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(27)[~~(26)~~] A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle, may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

Section 4. In any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of Sections 1 to 3 of this Act which can be given effect without the invalid provision or application, and to this end the provisions of Section 1 to 3 of this Act are severable.

The Committee Amendment No. 1 to **HB 460** is as follows:

Amend printed copy of **HB 460** on page 1, line 12, by deleting "***one (1) year***" and insert in lieu thereof "***five (5) years***"; and

On page 4, line 8, after the "." insert the following: "***A passenger shall not be in violation of subsection (7) of this section for failure to wear a seat belt, if all the manufacturer installed seat belts are being used and an additional seat belt is not available.***"

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors to Bills: **HB 241**, Representative Ackerson; **HB 652**, Representative Bruce; **HB 702**, **HB 906**, **HB 917**, Representative Adkins.

Representative Ark moved that the rules be suspended to withdraw **HB 723** and **HB 724**. Agreed.

Representative Palumbo moved that the rules be suspended to withdraw Floor Amendment No. 3 to the Committee Substitute to **HB 749** and Floor Amendment No. 4 to the Committee Substitute to **HB 749**. Agreed.

Representative Northup moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Northup moved that her vote be changed from "yea" to "nay" on **HB 675**. Agreed.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that she be recorded as voting "yea" on **HB 436**. Agreed.

Representative Lyne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that her vote be changed from "yea" to "nay" on **HB 607**. Agreed.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that she be recorded as voting "yea" on **HB 464**. Agreed.

Representative Moberly moved the adoption of the following **HR 201**:

HR 201, A RESOLUTION commending Dr. Paul Blanchard and Dr. Glen Kleine for directing the Robert A. Taft Seminar for Teachers, Eastern Kentucky University for hosting the seminar, and the Robert A. Taft Institute of Government for sponsoring it.

WHEREAS, the attitude of young people toward their government is of vital importance to the Commonwealth and is a responsibility of our educators; and

WHEREAS, the Taft Seminar for Teachers at Eastern Kentucky University endeavors to offer increased understanding of government processes and political responsibility; and

WHEREAS, more than thirty national, state and local political leaders join with educators for a meaningful exchange of ideas at the Taft Seminar; and

WHEREAS, Eastern Kentucky University is one of only twelve select universities in the nation hosting a Taft Seminar for Teachers and has established itself as an ideal program host; and

WHEREAS, Dr. Paul Blanchard and Dr. Glen Kleine have directed the Taft Seminar for Teachers at Eastern Kentucky fourteen times since 1977;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends Dr. Paul Blanchard and Dr. Glen Kleine for directing the Taft Seminar for Teachers, Eastern Kentucky University for hosting the seminar, and the Robert A. Taft Institute of Government for sponsoring it.

Section 2. That the Clerk of the House is directed to send three separate copies of this Resolution to Hanly Funderburk, President, Coats Building, Box 1A, Eastern Kentucky University, Richmond, Kentucky 40475; Dr. Paul Blanchard and Dr. Glen Kleine, Department of Government, Eastern Kentucky University, Richmond, Kentucky 40475.

HR 201 was adopted by voice vote.

Representative Richardson moved the adoption of the following **HR 199**:

HR 199, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Nellie Clemons Stamper.

With deepest respect, we pay homage and tribute to the memory of Nellie Clemons Stamper.

WHEREAS, Nellie Clemons Stamper, a native of Clark County, Kentucky, was born on November 5, 1898, and traversed these earthly bounds on March 11, 1992; and

WHEREAS, Nellie Clemons Stamper was the devoted wife of Burt Stamper, who preceded her in death; and

WHEREAS, Nellie Clemons Stamper was the cherished mother of two sons, McKinley Clemons and Everett Clemons; and one daughter, Thelma Clemons Watts; and loving grandmother to six grandchildren and seven great-grandchildren; and

WHEREAS, the passing of Nellie Clemons Stamper has left a void that will be difficult to fill and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body expresses its most profound sense of sorrow upon the passing of Nellie Clemons Stamper and extends to her family and friends its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of Nellie Clemons Stamper.

Section 3. That the Clerk of the House of Representatives is directed to transmit three copies of this Resolution to Mr. McKinley Clemons, 409 Shawnee Trail, Winchester, Kentucky 40391.

HR 199 was adopted by voice vote.

Representative Noland moved the adoption of the following **HR 195**:

HR 195, A RESOLUTION celebrating the one hundred and eighty-three years Estill County has been a part of the Commonwealth of Kentucky upon the occasion of Kentucky's Bicentennial Year.

WHEREAS, parts of Clark and Madison Counties were combined to form Estill County, effective April 1, 1808; and

WHEREAS, it was the fiftieth county created and was named in honor of Captain James Estill, a Revolutionary War officer, and early Kentucky pioneer killed by Indians in 1782; and

WHEREAS, Estill County is located in the central or Bluegrass area and Irvine serves as the county seat; and

WHEREAS, the entire eastern half of the county is part of the Daniel Boone National Forest; and

WHEREAS, the Kentucky River crosses the central part of the county and creates, along with the Red River and Drowning Creek nearly the entire west and north boundaries of the county; and

WHEREAS, in 1812, Irvine was established and named for Colonel William Irvine of Madison County, a strong supporter of Kentucky statehood; and

WHEREAS, as Kentucky approaches its two hundredth anniversary of statehood, it is only fitting and appropriate to honor Estill County's acceptance into the Commonwealth; and

WHEREAS, geography has always had an active influence on the lives of Kentuckians; and

WHEREAS, the varying topography within the state created the diversity that has been a part of Kentucky life from the beginning; and

WHEREAS, in many ways this diversity has served the state well; and

WHEREAS, it is appropriate that the motto of our great state is "United We Stand, Divided We Fall" because with minor exceptions, that thought has been central to the survival of Kentucky throughout its history from the tulmultuous frontier days to the divisions created by the Civil War, to the pressures of changing economic conditions; and

WHEREAS, through all the peaks and valleys, Kentuckians have drawn upon their inner strengths to survive and prosper;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the citizens of Estill County upon the occasion of Estill County's one hundred and eighty-third year as a part of the Commonwealth.

Section 2. That this honorable body commends the people of Estill County for their dedication to enhancing the positive image of the Commonwealth and the preservation of historical and cultural aspects of Kentucky, and encourages all the citizens of Estill County to join in the observance of Kentucky's Bicentennial Celebration on June 1, 1992.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Estill County Commissioner, Estill County Court House, Irvine, Kentucky, 40336.

HR 195 was adopted by voice vote.

Representative Donnermeyer moved the adoption of the following **HR 165**:

HR 165, A RESOLUTION urging local governments to provide excellent maintenance for their firefighting equipment.

WHEREAS, the safety of our citizens and the protection of property from fires rests in the capable hands of our Commonwealth's fire departments; and

WHEREAS, the provision of firefighting equipment is necessary to the tasks undertaken by our local firefighters; and

WHEREAS, the proper maintenance of this equipment prolongs its usefulness and lowers insurance costs; and

WHEREAS, our firefighters are able to confidently battle fires when they can rely on the quality of their equipment;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body urges that local governments provide for excellent maintenance of their firefighting equipment along such guidelines as those in Chapter 4, Sections 4.1, 4.2, and the appendix to Section 4.1 of the National Fire Protection Association's Fire Department Occupational Safety and Health Program. Following these guidelines, along with having inspectors certified by the National Transportation Safety Board, would greatly enhance the quality of service available to protect the citizens of the Commonwealth from the destructive potential of fire.

Section 2. That the Clerk of the House of Representatives is directed to transmit copies of this Resolution to the Department of Local Government; the State Fire Marshal's office; the fifteen area development districts established in KRS 147A.050; the Kentucky League of Cities, 2201 Regency Road, Lexington, Kentucky 40503; the Kentucky County Judge/Executive Association, 400 Thistleton Terrace, Frankfort, Kentucky 40601; The Kentucky Association of Counties, 400 King's Daughters Drive, Frankfort, Kentucky 40601; the Kentucky

Professional Firefighter's Association, 3915 Taylor Boulevard, Louisville, Kentucky 40215; the Kentucky Firefighter's Association, 3313 Thomas Street, Erlanger, Kentucky 41018; and the Commission on Fire Protection Personnel Standards and Education, U.S. 127 South, Frankfort, Kentucky 40601.

HR 165 was adopted by voice vote.

Representative Nelson moved the adoption of the following **HR 196**:

HR 196, A RESOLUTION in honor of Ollie Mae Vincent upon the occasion of her one hundred second birthday.

WHEREAS, Ollie Mae Vincent was born March 22, 1890; and

WHEREAS, Ollie Mae Vincent is a long time resident of Greenville, Kentucky, gaining respect and touching the hearts of many people throughout her lifetime; and

WHEREAS, Ollie Mae Vincent is the loving mother of one son, James Robert Vincent, and two daughters, Jewel Vincent Roll and Nell Vincent Wolf; and

WHEREAS, Ollie Mae Vincent is the proud grandmother of nine grandchildren, eighteen great-grandchildren and one great-great grandchild; and

WHEREAS, Ollie Mae Vincent has been an inspiration to all who have had the honor of knowing her; and

WHEREAS, Ollie Mae Vincent will be one hundred two years young on March 22, 1992;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body proudly hails Ollie Mae Vincent on the occasion of her one hundred second birthday on March 22, 1992, and wishes to her success in all future endeavors.

Section 2. That when the House of Representatives adjourns this day, it does so in honor of the occasion of the one hundred second birthday of Ollie Mae Vincent.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mrs. Ollie Mae Vincent, 302 College Street, Greenville, Kentucky 42345.

HR 196 was adopted by voice vote.

Representative Barrows moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 433**, **HB 198**, **HB 427** and **HB 625**. Agreed.

Representative Stokes moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Stokes moved that she be recorded as voting "yea" on **HB 477**, **HCR 13**, **HB 772**, **HB 597**, **HB 256**, **HB 502**, **HB 468**, **HCR 20**, **HB 93** and **HB 115**. Agreed.

Representative Stokes moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stokes moved that she be recorded as voting "nay" on **HB 464**. Agreed.

Announcements

The following meetings were announced:

Health and Welfare, March 13, 1992, Room 131, upon adjournment.

State Government, Room 113, upon adjournment, March 12, 1992.

Education, Room 131, upon adjournment, March 12, 1992.

Banking and Insurance, Room 129, upon adjournment, March 12, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, March 13, 1992.

On the roll call the vote was yeas 72—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Bowling, Brown, Bruce, Butler, Callahan, Casebier, L. Clark, P. Clark, Collins, Crupper, Cyrus, Donnermeyer, Farley, Farrow, Freibert, Gee, Gedling, Geveden, Gray, Hancock, K. Harper, Hatcher, Jensen, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lyne, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Northup, Nunn, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, Stokes, Strong, Stumbo, Todd, Turner, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Barrows, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, MARCH 13, 1992

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Jim Miller, Lampton Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 12, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 35**, **SB 110**, **SB 128**, **SB 158**, **SB 176**, **SB 258**, **SB 291**, **SB 367** and **HJR 73**. (Time: 10:04 a.m.)

Message received in regard to **HB 401**: The Senate has passed **HB 401** by way of Committee Substitute with Senate Floor Amendment No. 3 and Senate Floor Amendment No.4 and respectfully requests concurrence of this Honorable Body.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 137**, **HB 492** and **HB 437** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 10:05 a.m)

HB 137, **HB 492 and HB 437** were delivered to the Senate and signed by the President. Delivered to the Governor on March 13, 1992 at 10:23 a.m.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HCR 202**, **SB 205**, **SB 329**

Banking and Insurance: **SB 195**, **SB 242**, **SB 270**, **SB 311**

Education: **SB 260**, **SCR 76**

Elections and Constitutional Amendments: **SB 186**

Natural Resources and Environmental Protection: **SB 330**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Elections and Constitutional Amendments: **SB 308**

Economic Development: **SB 314**, **SB 315**, **SB 316**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Elections and Constitutional Amendments: **HB 857**

Report of Committees

The Committee on Banking and Insurance reported **HB 611, HB 840, HB 859, HB 877**, with Committee Substitute attached thereto, and **SB 216** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 611, AN ACT relating to automobile insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.20-045 is amended to read as follows:

(1) No insurer shall increase the premium on***, or refuse to renew,*** an automobile [~~liability~~] insurance policy solely as a result of a claim ***made against any of the coverages provided by the policy*** [~~for an automobile accident filed by an insured~~] if the insured was not at fault nor contributorily negligent.

(2) An insured may notify in writing the commissioner of insurance if the insured believes that an insurer has increased his premium ***or refused to renew his policy*** in violation of subsection (1) of this section. The commissioner shall investigate the complaint, take appropriate action, and send written notice of his actions to the insured.

Section 2. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others;

2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1500) pounds or less which is not used in the occupation, profession, or business of the insured.[~~; provided, however, that~~] This section shall not apply:

a. To any policy issued under an automobile assigned risk plan;

b. To any policy insuring more than four (4) automobiles; or

c. To any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards;

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, and automobile physical damage coverage;

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term.[~~; provided, however, that~~] Any policy with a policy period or term of less than three (3) months shall***,*** for the purpose of this section***,*** be considered as if written for a policy period or term of three (3) months. [~~Provided, further, that~~] Any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall***,*** for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and ***the*** [~~such~~] policy may be terminated at the expiration of any annual period upon giving seventy-five (75) days' notice of cancellation prior to ***the*** [~~such~~] anniversary date, and ***the*** [~~such~~] cancellation shall not be subject to any other provisions of this section; and

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of ***the*** [~~such~~] premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:

1. Nonpayment of premium; or

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy;

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy; and

(d) This subsection shall not apply to nonrenewal.

(3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation. ***If*** [~~; provided, however, that where~~] cancellation is for nonpayment of premium, at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.

(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured ***or for the reason provided in Section 1 of this Act.***

(5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least seventy-five (75) days' advance notice of its intention not to renew.

(6) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of ***the*** [~~such~~] renewal.

(7) If the insurer has manifested its willingness to renew by mailing or delivering a renewal notice, bill, certificate, or policy to the first-named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date, unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first-named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist.

(8) (a) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date, shall constitute a presumption of receipt pursuant to subsection (7) of this section.

(b) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(9) No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured or the applicant is handicapped or a physically disabled person, so long as the handicap or physical disability does not substantially impair the person's mechanically assisted driving ability.

(10) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection (5) of this section applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. ***The*** [~~Such~~] notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. ***The*** [~~Such~~] notice shall also inform the insured that he may, within four (4) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving ***the*** [~~such~~] a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b).

(11) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(12) Except where the maximum limits of coverage have been purchased, every notice of first renewal shall include a provision or be accompanied by a notice stating in substance that added uninsured motorists, underinsured motorists, and personal injury protection coverages may be purchased by the insured.

(13) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

HB 840, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.2281 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 18A.225, the Department of Personnel may establish a state employee benefit fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the Finance and Administration Cabinet as provided in KRS 18A.225(2). All moneys remaining in this fund at the end of the fiscal year, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.

(2) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents.

(3) The contributions made to the benefit fund may be paid:

(a) Wholly from funds contributed by the covered employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any amount due over that contributed by the state or department, board, or agency for coverage shall be paid by the employee.

(4) No contribution by the state or department, board, or agency shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of such employee. Any expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the Department of Personnel may approve.

(6) Group rates under the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(7) Benefits payable under the self-funded plan shall be paid directly to the hospital or person rendering covered services if the plan has received an assignment of benefits to the hospital or person rendering covered services that is in writing and signed by the insured employee. Payment so made shall discharge the obligation of the plan with respect to the amount paid.

Section 2. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(9) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(10) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(11) The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Congressional districts, members representing state government from each of the seven Congressional districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(12) Benefits payable under the policy or policies shall be paid directly to the hospital or person rendering covered services if the insurer has received an assignment of benefits to the hospital or person rendering covered services that is in writing and signed by the insured employee. Payment so made shall discharge the obligation of the insurer with respect to the amount paid.

HB 859, AN ACT relating to banking.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.270 is amended to read as follows:

(1) For calendar year 1984 and each year thereafter, an annual tax of ninety-five cents ($0.95) is hereby imposed on each one hundred dollars ($100) of the taxable fair cash value of shares, except shares of bankers' banks organized under KRS 287.135, as determined in accordance with subsection (4) of this section. The tax shall be paid to the sheriff of the county annually by the banks and trust companies, for and on behalf of the owners of the shares of stock. The tax shall be for state purposes only, and in lieu of all other taxes upon such shares by the state, or any county, city, or other taxing district, except as provided in subsections (2) and (3) of this section.

(2) The county in which the bank or trust company is located may impose a tax on each one hundred dollars ($100) of the taxable fair cash value of shares of such bank or trust company, except shares of bankers' banks organized under KRS 287.135, at a rate not to exceed a rate to be determined by multiplying nineteen cents ($0.19) by a fraction, the numerator of which is the fair cash value of shares of all banks or trust companies within the county and the denominator of which is the taxable fair cash value of shares of all banks or trust companies within the county.

(3) The city in which the bank or trust company is located may impose a tax on each one hundred dollars ($100) of the taxable fair cash value of the shares of such bank or trust company, except shares of bankers' banks organized under KRS 287.135, at a rate not to exceed a rate to be determined by multiplying nineteen cents ($0.19) by a fraction, the numerator of which is the fair cash value of shares of all banks or trust companies within the city and the denominator of which is the taxable fair cash value of shares of all banks or trust companies within the city.

(4) For calendar year 1984 and each year thereafter, the fair cash value and taxable fair cash value of shares shall be determined in the following manner:

(a) The net worth (capital stock, surplus, undivided profits, and reserves for contingencies and other capital reserves) of the bank or trust company as of December 31 of each year shall be determined***; provided that increases in capital accounts attributable to purchase accounting adjustments computed in accordance with generally accepted accounting principles shall be excluded in making the determination***.

(b) The net income (***adjusted to eliminate any income or expenses associated with the purchase accounting adjustments referred to in paragraph (a) of this subsection and*** after federal income taxes and before dividends) of the bank or trust company for the past five (5) years, or so many years in which there was net income (not to exceed five (5)) as are available, preceding the assessment date, shall be averaged and capitalized at a rate determined by the Revenue Cabinet.

(c) On or before September 1 of each year, the Revenue Cabinet shall provide to the banking industry the capitalization rate developed from the previous year's annual reports of banks and trust companies submitted to the cabinet. The rate shall be determined as follows:

1. Determine the ratio of each bank's five (5) year average net income to the previous year's net worth;

2. Rank the resulting ratios; and

3. The medium ratio shall be the capitalization rate.

(d) The results of the computation in paragraphs (a) and (b) of this subsection shall be added and the sum divided by two (2) to determine fair cash value. From fair cash value shall be subtracted the influence of tax-exempt United States obligations to determine taxable fair cash value of shares subject to the annual tax. The influence of tax-exempt United States obligations is to be determined from the reports of condition and income filed with the applicable supervisory agency as follows: the average amount of tax-exempt United States obligations for the calendar year, over the average amount of total assets for the calendar year multiplied by the fair cash value.

(5) In any extraordinary case where application of the formula provided by subsection (4) of this section will result in an inequitable or erroneous assessment, either with respect to the bank or the Commonwealth, the fair cash value and taxable fair cash value of shares shall be determined in accordance with other recognized criteria.

HB 877, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer, its agents, or adjusters shall not:

(a) Request, recommend, direct, or require any policyholder to use a particular company or location for the provision of automobile glass replacement or repair services or products which shall be replaced, repaired, or provided in whole or in part under the terms of an insurance policy;

(b) Engage in any act or practice of intimidation, coercion, threat, incentive, or inducement for or against any policyholder to use a particular company or location to provide automobile glass replacement or repair services or products insured in whole or in part under the terms of an insurance policy.

(2) In addition to the suspension or revocation of licenses or certificates of authority, imposition of civil penalties, or both, applicable under this chapter, any entity which provides automobile glass replacement or repair services or products in Kentucky, or any aggrieved policyholder, may cause an action to be brought in the appropriate Circuit Court to enjoin any violence of this section. The Circuit Court having jurisdiction may enjoin violations regardless of the existence of an adequate remedy at law. The party enjoined shall pay all costs and reasonable attorney's fees incurred by the party enforcing the provisions of this section. In any action under this section, it shall not be necessary that damages be proved. The court shall award the civil penalties specified in Section 2 of this Act to the general fund of the Commonwealth of Kentucky for each violation of this section.

SECTION 2. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The court having jurisdiction of an action under Section 1 of this Act shall impose a civil penalty of ten thousand dollars ($10,000) per violation of Section 1 of this Act.

The Committee Substitute to **HB 877** is as follows:

HB 877, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer, its agents, or adjusters shall not:

(a) Require any policyholder to use a particular company or location for the provision of automobile glass replacement or glass repair services or glass products which shall be replaced, repaired, or provided in whole or in part under the terms of an insurance policy;

(b) Engage in any act or practice of intimidation, coercion, or threat against any policyholder to use a particular company or location to provide automobile glass replacement or repair services or products insured in whole or in part under the terms of an insurance policy.

(2) No person selling or engaged in the sale or installation of replacement glass shall advertise, promise to provide, or offer any coupon, credit, or rebate to pay all or part of an insurance deductible under a property and casualty insurance policy.

(3) This section shall not be construed to require an insurer to pay more for automobile glass replacement, or glass repair services or glass products than the lowest price available in the market area provided by a qualified, competent glass repair company.

(4) Violation of this section shall be subject to penalties as provided in KRS 304.99-020.

SB 216, AN ACT relating to securities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 292.400 is amended to read as follows:

KRS 292.340 to 292.390 shall not apply to any of the following:

(1) Any security, [~~(~~]including a revenue obligation,[~~)~~] issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one (1) or more of the foregoing; or any certificate of deposit for any of the foregoing;

(2) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any such province, any agency or corporate or other instrumentality of one (1) or more of the foregoing, or any other foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institutions, or trust company organized and supervised under the laws of any state;

(4) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings and loan association, or any building and loan or similar association organized under the laws of any state and authorized to do business in this state;

(5) Securities issued by corporations formed under KRS Chapter 279;

(6) Any security[~~:~~

~~(a)~~] issued or guaranteed by any federal credit union or any credit union; [~~or~~

~~(b) Any security issued by any industrial loan association or consumer loan company organized and supervised under the laws of this state if either:~~

~~1. Such issuer has a capital account of at least one million dollars ($1,000,000); or~~

~~2. The issuer first files a notice with the director along with a copy of the prospectus or offering circular intended for distribution to prospective investors, which shall contain such information as the director by rule requires, and the director does not by order disallow the exemption within the next ten (10) full business days. "Capital account" means, for the most recent fiscal year, the sum of the par or stated value of all classes of capital stock, the consolidated surplus, whether capital or earned, and any indebtedness which by its terms is subordinate to the exempt security;~~]

(7) Any security issued or guaranteed by any railroad, other common carrier, public utility, or holding company which is:

(a) Subject to the jurisdiction of the Interstate Commerce Commission;

(b) A registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of such a company within the meaning of that Act;

(c) Regulated in respect of its rates and charges by a governmental authority of the United States or any state or municipality; or

(d) Regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, any state, Canada, or any Canadian province;

(8) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange or any other stock exchange approved by the director; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing;

(9) Any security issued by any person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association;

(10) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidence an obligation to pay cash within nine (9) months of the date of issuance, exclusive of days of grace, or any renewal of ***the*** [~~such~~] paper which is likewise limited, or any guarantee of ***the*** [~~such~~] paper or of any [~~such~~] renewal;

(11) Any investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan if the director is notified in writing thirty (30) days before the inception of the plan or, with respect to plans which are in effect on January 1, 1961, within sixty (60) days thereafter (or within thirty (30) days before they are reopened if they are closed on January 1, 1961);

(12) Securities issued by corporations formed under or which have adopted the provisions of KRS 272.101 to 272.345 and patronage dividends or refunds be they in the form of stock, book equities, letters of credit or letters of advice issued by any agricultural cooperative association which are the result of distributable earnings or savings;

(13) Any class of securities added by the director, by rule and subject to ***the*** [~~such~~] terms and conditions [~~as~~] the director prescribes, to the securities exempted by this section, if the director finds that enforcement of this chapter with respect to ***the*** [~~such~~] securities is not necessary in the public interest and for the protection of investors by reason of the small amount involved or limited character of the public offering.[~~, but~~] No issue of securities shall be exempted under this subsection ***if*** [~~where~~] the aggregate amount at which ***the*** [~~such~~] issue is offered to the public exceeds two hundred thousand dollars ($200,000);

(14) Any security which meets all of the following conditions:

(a) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of ***the*** [~~such~~] agent in its prospectus;

(b) A class of the issuer's securities is required to be and is registered under Section 12 of the Securities Exchange Act of 1934, and has been so registered for the three (3) years immediately preceding the offering date;

(c) Neither the issuer nor a significant subsidiary has had a material default during the last seven (7) years (or the issuer's existence if less than seven (7) years) in the payment of:

1. Principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money; or

2. Rentals under leases with terms of three (3) years or more;

(d) The issuer has had consolidated net income (before extraordinary items and the cumulative effect of accounting changes) of at least one million dollars ($1,000,000) in four (4) of its last five (5) fiscal years including its last fiscal year; and if the offering is of interest-bearing securities, has had for its last fiscal year, such net income, but before deduction for income taxes and depreciation, of at least one and one-half (1 1/2) times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. "Last fiscal year" means the most recent year for which audited financial statements are available, ***if the*** [~~provided~~ ~~that~~ ~~such~~] statements cover a fiscal period ended not more than fifteen (15) months from the commencement of the offering;

(e) If the offering is of stock or shares, other than preferred stock or shares, ***the*** [~~such~~] securities have voting rights and ***the*** [~~such~~] rights include:

1. The right to have at least as many votes per share; and

2. The right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law;

(f) If the offering is of stock or shares, other than preferred stock or shares, ***the*** [~~such~~] securities are owned beneficially or of record, on any date within six (6) months prior to the commencement of the offering, by at least twelve hundred (1200) persons, and on ***that*** [~~such~~] date there are at least seven hundred fifty thousand (750,000) such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least three million seven hundred fifty thousand dollars ($3,750,000). In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith for the purposes of this section upon written information furnished by the record owners.

(15) Memberships and voting stock issued by cooperative corporations formed under or which have adopted the provisions of KRS 272.020 to 272.050, and patronage refunds issued by cooperative corporations which are the result of distributable earnings or savings.

The Committee on Education reported **HB 326** and **HB 900** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 326, AN ACT relating to the construction of school buildings.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 162 IS CREATED TO READ AS FOLLOWS:

The State Board of Education shall promulgate administrative regulations for use by local school boards when constructing school buildings using construction managers. The regulations shall include, but not be limited to:

(1) A standard "Request for Proposal" form, including appropriate criteria for use by local school boards to ensure only qualified construction managers are considered;

(2) A schedule of appropriate bid response times proportionate to the size and complexity of school construction projects, to ensure bidders have adequate time to prepare their bids;

(3) A requirement for bids, when requested by a construction manager, be submitted to an independent official and opened in public;

(4) A requirement that all bids for school construction projects be advertised in newspapers with a statewide distribution, trade journals, and newspapers with local circulation;

(5) A fee schedule for construction manager services which include payments on a percentage of completion basis; and

(6) A prequalification criteria for architectural firms for use by local boards when negotiating for architectural services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 162 IS CREATED TO READ AS FOLLOWS:

When a construction manager is utilized in construction, maintenance, repairs, or renovation or expansion of school facilities the construction manager shall not accept bids from any company which the manager owns or in which the manager has a financial interest.

SECTION 3. A NEW SECTION OF KRS CHAPTER 162 IS CREATED TO READ AS FOLLOWS:

Sections 1 and 2 of this Act shall apply to all construction of new school facilities, maintenance, and repair of existing school facilities, renovation of existing school facilities, or expansion of existing school facilities.

HB 900, AN ACT relating to employment readiness.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Workforce Development shall create a pilot project, in conjunction with one (1) area development district in which the unemployment rate is at least ten percent (10%) to be sited in a county within that area development district in which the unemployment rate exceeds fifteen percent (15%) to address the comprehensive needs of eligible low income participants seeking employment or training reasonably expected to lead to employment.

(2) The Cabinet for Workforce Development shall promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement the provisions of this Act, including establishment of a fee schedule for services based on a sliding fee scale based on income of participants.

(3) The services to be provided by the pilot project shall include but shall not be limited to the following:

(a) Functional assessment and training of participants;

(b) Provision of necessary educationally oriented child care;

(c) Adult basic education and literacy instruction;

(d) Lifeskills development training;

(e) Job readiness training;

(f) Transportation services as needed for eligible participants;

(g) Assistance with completion of applications for public assistance; and

(h) Other necessary services.

(4) Program fees, or a portion thereof, may be waived by the pilot project in return for services provided by participants to the pilot project, subject to policy established by the cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Workforce Development may contract with the area development district in which the pilot project is located to provide any administrative functions deemed necessary by the cabinet.

(2) The Cabinet for Workforce Development and the area development district pilot project shall utilize programs for which participants may be eligible, offered by other state agencies including but not limited to:

(a) The Cabinet for Human Resources;

(b) The Education and Humanities Cabinet and the Kentucky Department of Education;

(c) The Economic Development Cabinet; and

(d) The Council on Higher Education.

SECTION 3. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

The Cabinet for Workforce Development or other state agencies participating in the pilot project may seek any waivers from federal statutes or regulations deemed necessary to implement and fund the pilot project created pursuant to the provisions of Section 1 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Workforce Development shall enter into agreements with other cabinets of state government, at the secretary's discretion, to assure that the comprehensive needs of pilot project participants are met.

(2) Any state agency with which the secretary of Workforce Development seeks to enter into agreement as provided in this section or Section 2 of this Act, shall cooperate to the fullest extent practicable.

SECTION 5. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Workforce Development shall conduct or cause to be conducted, a program effectiveness and efficiency evaluation of the pilot project created pursuant to Section 1 of this Act.

(2) The evaluation report shall include but shall not be limited to:

(a) The number of participants in the pilot project;

(b) The types of services available to participants through the pilot project and the utilization rates for those services;

(c) The ages and income levels of participants;

(d) The functioning level of individual participants prior to entering the program, and after completion of the program; and

(e) The cost of providing services to each participant.

(3) The results of the study shall be made available to the Legislative Research Commission and the secretaries of each cabinet participating in the pilot project not later than eighteen (18) months after the effective date of this Act.

The Committee on State Government reported **HB 250**, with Committee Substitute and Committee Amendment, **SB 114**, with Committee Amendments attached thereto, **SB 192**, **SB 220**, **SB 251** and **SJR 37** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 250, AN ACT relating to public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) No public official elected by the voters of the Commonwealth statewide shall have or cause to have his name or picture printed in any pamphlet, brochure, book or similar publication paid for with state funds, except the name of a statewide public official may be printed on or in publications or books specifically mandated by Kentucky statutes, if the name is printed for informational purposes only.

(2) No public official elected by the voters of the Commonwealth statewide shall have or cause to have his name or picture appear in or on any advertisement paid for with state funds.

(3) Any public official who violates this section shall be guilty of a Class D felony and shall forfeit his office.

SECTION 2. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The State Treasurer shall not have or cause to have his name or picture printed on any state check, check stub, or evidence of electronic fund transfer. This section shall not apply to the signature of the State Treasurer which is affixed to state checks.

(2) Any State Treasurer who violates this section shall be guilty of a Class D felony and shall forfeit his office.

The Committee Substitute to **HB 250** is as follows:

HB 250, AN ACT relating to public officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) A public official elected by the voters of the Commonwealth statewide shall not have or cause to have his name or picture printed on any state check, check stub, or evidence of electronic fund transfer, or any other document paid for with state funds that conveys a legal benefit or entitlement to a specific person and is the sole means by which the person receives the benefit or entitlement. This section shall not apply to the signature of the public official which is affixed to state checks or to any other document requiring his signature.

(2) Any public official who violates this section shall be guilty of a Class D felony and shall forfeit his office.

The Committee Amendment No. 1 to **HB 250** is as follows:

Amend printed copy of **HB 250/HCS** on page 1, line 4, by deleting "***have or***".

SB 114, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other [~~such~~] items [~~as are~~] determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service

credit during ***the*** [~~such~~] five (5) year period, multiplied by twelve (12); ***the*** [~~such~~] five (5) years may be fractional and need not be consecutive. ***If*** [~~In the event~~] the number of months of service credit during ***the*** [~~such~~] five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). ***The*** [~~Such~~] rate shall be certified to the ***system*** [~~board~~] by the employer and the following equivalents shall be used to convert ***the*** [~~said~~] rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of [~~such~~] actuarial tables [~~as are~~] adopted by the board, except ***that,*** in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member.[~~, provided however, that~~] No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the State Police Retirement System, a member of the County Employees Retirement System or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability***, hazardous disability,*** or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student[~~, as defined in the federal Social Security Act,~~] who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS ***16.010*** [~~Chapter 18A as provisional full-time, probationary full-time and permanent full-time~~];

(24) "Hazardous disability" as used in KRS 16.510 to 16.652 means ***a*** [~~such~~] disability ***which*** [~~as~~] results in an employee's total incapacity to continue as an employee in a hazardous position, but ***the*** [~~such~~] employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. ***The*** [~~Such~~] rate shall be certified by the employer;

(26) "Beneficiary" means the person, [~~or~~] persons, [~~or~~] estate, [~~or~~] trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee; [~~and~~]

(27) "Recipient" means the retired member, [~~or~~] the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance***;***

(28) "Person" means a natural person; and

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort.

Section 2. KRS 16.530 is amended to read as follows:

Under such rules and regulations as are adopted by the board, each employee becoming a member on July 1, 1958, shall ***have on*** file ***at the retirement office*** [~~with the board~~], on such forms as the board may prescribe, a statement of the facts pertaining to his status as a member which shall include a detailed description of all service rendered prior to July 1, 1958. Until such statement is filed, no member or his beneficiary shall be entitled to receive any benefits under KRS 16.505 to 16.652. As soon as practicable after said statement is filed, the ***system*** [~~board~~] shall ascertain the amount of prior service, if any, to which each member is entitled and shall issue to each member a certificate certifying the length of such service rendered by him.

Section 3. KRS 16.543 is amended to read as follows:

(1) Employee contributions shall be deducted from the creditable compensation of each member of the retirement system in the active employment of the Department of State Police of the Justice Cabinet as an officer as defined in KRS 16.520. After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 16.545(4). Service credit shall be allowed for each month such member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Contributions shall not be made and no service will be earned while on authorized leave except:

(a) A member shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave, approved by the Department of Personnel, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions or such contributions shall be picked up in accordance with KRS 16.545 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(3) The retirement office, upon detection, shall refund ***any*** erroneous employer and employee contributions made to the retirement system ***and any interest credited in accordance with KRS 16.560.***

Section 4. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the ***system*** [~~board~~], setting forth at what time the retirement is to become effective, ***if the*** [~~provided that such~~] effective date shall be after his last day of service and subsequent to the filing of ***the*** [~~such~~] notice ***at the retirement office.***

(3) The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5), or (7) of this section or any one (1) of the plans set forth in KRS 61.635.

(4) Effective August 1, 1990, a member of the Kentucky State Police Retirement System may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the County Employees Retirement System covered by this section may elect to receive an annual retirement

allowance, payable monthly during his lifetime, equal to two and five-tenths percent (2.5%) of final compensation for each year of service credit. Effective August 1, 1988, a member of the Kentucky Employees Retirement System covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-nine hundredths percent (2.49%) of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(5) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978, or thereafter, and his spouse and dependents or beneficiary shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years. Effective with any insurance contract procured, or self-insurance plan instituted, after July 15, 1990, a member who retired prior to June 17, 1978, and his spouse and dependents or beneficiary shall receive insurance benefits pursuant to KRS 61.702 upon payment by the member or beneficiary of the entire cost of the required insurance premium.

(6) Notwithstanding any other provisions of this section, upon written notification to the ***system*** [~~board~~], a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(7) In lieu of any other benefits due under KRS 16.505 to 16.652, a member who has attained age fifty-five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

Section 5. KRS 16.578 is amended to read as follows:

(1) If a member, eligible to retire as provided in KRS 16.576, dies at any time before the first benefit payment has been ***issued*** [~~drawn~~] by the State Treasurer and has on file ***in the retirement office*** [~~with the board~~] at the time of his death a written designation of a beneficiary, ***the*** [~~then said~~] beneficiary may elect to receive an annual benefit payable monthly which shall be equal to the benefit that would have been paid had the member retired immediately prior to his date of death and elected to receive payments under subsection (2) of KRS 61.635 or the [~~said~~] beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the [~~said~~] beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent refund.

(2) If a member in active employment or on authorized leave of absence with five (5) or more years of service dies at any time before his normal retirement date and has on file ***in the retirement office*** [~~with the board~~] at the time of his death a written designation of a beneficiary, ***the*** [~~then said~~] beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the [~~said~~] beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the [~~said~~] beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in active employment nor on authorized leave of absence with twelve (12) or more years of service, dies at any time before his normal retirement date and has on file ***in the retirement office*** [~~with the board~~] at the time of his death a written designation of a beneficiary, ***the*** [~~then said~~] beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equal to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at the date of his death, had the member been eligible for retirement and had he chosen benefits payable under subsection (2) of KRS 61.635 or the [~~said~~] beneficiary may elect the actuarial equivalent payable for sixty (60) months certain or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain, or the [~~said~~] beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635 or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent refund.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4), then reduced by fifty percent (50%) and the actuarial equivalent payable for one hundred twenty (120) months certain shall be determined, or the [~~said~~] beneficiary may elect to receive the beneficiary Social Security adjustment payment under subsection (9) of KRS 61.635.

(5) If the member, subject to subsection (1), (2), (3) or (4) of this section had on file a written designation of multiple beneficiaries, or his estate, [~~or~~] trust, or trustee, ***the*** [~~then said~~] multiple beneficiaries by consensus or the administrator or executor of ***the*** [~~said~~] estate or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsection (1), (2), (3) or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(6) [~~Actuarial equivalent refund.~~] The beneficiary may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, [~~or~~] trust, or trustee, the multiple beneficiaries by consensus, [~~or~~] trustee, [~~or~~] executor, or administrator of the estate may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's, for a period of sixty (60) months.

(7) In the case of a single beneficiary, the highest monthly benefit determined under subsection (1), (2), (3), (4) or (6) of this section for a life annuity, [~~or~~] for payments for sixty (60) months certain, [~~or~~] for payments for one hundred twenty (120) months certain, [~~or~~] for the actuarial equivalent refund or for the beneficiary Social Security payment shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, [~~or~~] trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5) or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, [~~or~~] trustee, [~~or~~] administrator, or executor of the estate.

Section 6. KRS 16.591 is amended to read as follows:

(1) ***If*** [~~In the event~~] disability is partial, as provided in subsections (1) and (2) of KRS 16.586 and as determined by the board, a member in service with five (5) years of service credit shall be eligible to receive benefits under subsection (2) of KRS 16.581 except that the monthly retirement allowance shall be reduced by his disability ratio.

(2) ***If*** [~~In the event~~] disability is partial, as provided in subsection (3) of KRS 16.586 and as determined by the board, the retirement allowance of ***the*** [~~such~~] member shall be reduced by his disability ratio. Reduced payments shall begin in the month following the termination of payments under total and permanent disability.

(3) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

(4) ***If a retired hazardous position member or a member of the State Police Retirement System is receiving benefits under partial disability as provided for under KRS 16.586 and is reemployed pursuant to KRS 61.637 in a nonhazardous position, the board may permit the member to receive a partial disability allowance while accruing retirement benefits in the nonhazardous position.***

(5) In lieu of the allowances provided by subsections (1) and (2) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he qualifies therefor.

Section 7. KRS 16.596 is amended to read as follows:

Once each year following the retirement of a member on a disability retirement allowance, the ***system*** [~~board~~] may require ***the*** [~~such~~] member, prior to his normal retirement date, to undergo a medical examination. ***If*** [~~Should~~] the member ***refuses*** [~~refuse~~] to submit to ***the*** [~~any such~~] medical examination, his retirement allowance shall be discontinued until his withdrawal of [~~such~~] refusal, and ***if he continues to refuse*** [~~should such refusal continue~~] for one (1) year, all his rights to any further disability allowance shall cease.

Section 8. KRS 16.598 is amended to read as follows:

(1) ***If*** [~~In the event~~] hazardous disability occurs on or after August 1, 1986, as a direct result of an "act in line of duty," the member in service may retire on his disability retirement date and shall be eligible to receive retirement benefits as follows:

(a) For the disabled member, benefits as provided under subsection (2) of this section, except that there shall be no service requirement for eligibility except that the member be employed and the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay. However, total maximum dependent childrens' benefits shall not be greater than forty percent (40%) of the member's monthly final rate of pay.

(2) ***If*** [~~In the event~~] hazardous disability is not a direct result of an "act in line of duty," the employee in service with five (5) years of service credit shall retire on his disability retirement date and shall be eligible to receive benefits under KRS 16.576(3) and (4)***,*** except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his fifty-fifth birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his hazardous disability retirement allowance, including total service and added service, shall not exceed twenty (20) years, except when the member has accumulated total service of twenty (20) or more years, his total service shall be used in computing hazardous disability benefits.

(3) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or over.

(4) ***If a retired hazardous position member or a member of the State Police Retirement System is receiving benefits under hazardous disability as provided for under this section and is reemployed pursuant to KRS 61.637 in a nonhazardous position, the board may permit the member to receive a hazardous disability allowance while accruing retirement benefits in the nonhazardous position.***

(5) In lieu of the allowance provided by subsection (1) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he qualifies therefor.

Section 9. KRS 16.601 is amended to read as follows:

(1) ***If*** [~~In the event~~] the death of a member in service occurs on or after ***August 1, 1992*** [~~July 1, 1968~~], as a direct result of an "act in line of duty" and the member has on file ***in the retirement office*** [~~with the board~~] at the time of his death a written designation of a beneficiary who is his spouse, ***the*** [~~then said~~] beneficiary may elect to receive a lump-sum payment of ***ten*** [~~five~~] thousand dollars ***($10,000)*** [~~($5,000)~~] and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death or until ***the spouse*** [~~she~~] remarries, whichever occurs first.

(2) ***If*** [~~In the event~~] the death of a member in service occurs on or after July 1, 1968, as a direct result of an "act in line of duty" and the member has on file ***in the retirement office*** [~~with the board~~] at the time of his death a written designation of a beneficiary other than his spouse, who is a dependent receiving at least one-half (1/2) of his support from the deceased member, ***the*** [~~then said~~] beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000).

(3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. ***The*** [~~Such~~] payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the ***system*** [~~board~~]. Benefits shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.

(4) A beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.

Section 10. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, ***purchase of service credit, interest paid, delayed contribution and installment payments,*** as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;

(26) Service credit, Armed Forces, as provided by KRS 61.555; [~~and~~]

(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569***; and***

(28) Statement to be made under oath, good faith reliance, as provided for in Section 50 of this Act.

Section 11. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term shall not[~~, however,~~] include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of ***a*** [~~such~~] department having the power to appoint or select an employee in ***the*** [~~such~~] department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies ***the*** [~~such~~] position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied ***the*** [~~such~~] position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent ***the*** [~~such~~] tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of

service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). ***The*** [~~Said~~] five (5) years may be fractional and need not be consecutive. ***If*** [~~In the event~~] the number of months of service credit during ***the*** [~~such~~] five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except for members of the General Assembly, the "final rate of pay" shall be the creditable compensation. ***The*** [~~Such~~] rate shall be certified to the ***system*** [~~board~~] by the employer and the following equivalents shall be used to convert ***the*** [~~said~~] rate to an annual rate; nineteen hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of ***the*** [~~such~~] actuarial tables ***that*** [~~as~~] are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member.[~~; provided, however, that~~] No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month, including all positions [~~as set forth in KRS Chapter 18A as provisional full-time, probationary full-time, and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS Chapter 18A of provisional full-time, probationary full-time, and permanent full-time and all other positions~~] except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months [~~in any event~~];

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months [~~in any event~~] and not renewable; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than ***a calendar*** [~~an annual~~] or fiscal year average of one hundred (100) hours of work per month***, determined by using the number of months actually worked within a calendar or fiscal year,*** in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. ***The*** [~~Such~~] amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552***(9)***[~~(8)~~], except the employee shall pay a single payment of fifty percent (50%) of the total cost of ***the*** [~~such~~] service with no cost to the employer, and ***the*** [~~such~~] payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. ***The*** [~~Such~~] rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust or trustee; [~~and~~]

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance***;***[~~.~~]

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period***;***

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person; and

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort.

Section 12. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following ***the*** [~~such~~] department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership ***was initially*** [~~is~~] limited to employees of state government and their families ***and which subsequently may have been extended to local government employees and their families***;

(4) All persons who were professional staff employees of the Council on Higher Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d); and

(7) Membership in the system shall not include those employees who are simultaneously contributing to another state administered retirement fund within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 13. KRS 61.526 is amended to read as follows:

(1) Each employee on becoming a member of the Kentucky Employees Retirement System shall ***have on*** file ***in the retirement office*** [~~with the board~~], in ***the*** [~~such~~] form as the board may prescribe, a statement of facts pertaining to the member. The statement shall include a record of military service, previous employment with the employer, and such other information as the ***system*** [~~board~~] may require.

(2) ***If*** [~~In the event that~~] the records of the Department of Personnel or the department employing the member during the time the service was rendered do not substantiate the statement of service, the member shall be notified of any discrepancy. The member shall be advised that he has the responsibility of supplying verification of any [~~such~~] unsubstantiated service.

(3) At the request of the member, or the beneficiary if the member is deceased, the general manager shall arrange a time and place to receive additional information in regard to the unverified service. After filing the request, the member or the beneficiary if the member is deceased, shall have a reasonable time but no more than six (6) months to present the additional information to substantiate the unverified service.

(4) The system may at any time conduct an audit of the employing department pursuant to KRS 61.675.

Section 14. KRS 61.527 is amended to read as follows:

(1) The system shall extend to and embrace police court judges and present and future survivors who are covered as of December 31, 1977, by pension plans established under KRS 26.650 or 26.652 and which existed as of July 31, 1976.

(2) Within thirty (30) days after January 1, 1978, the city legislative body of each city with a pension plan established under KRS 26.650 or 26.652 shall furnish the ***system*** [~~board~~] a record of the period of service and contributions of each person covered by the plan, and, for any survivor who is benefiting from the plan, the monthly pension amount being received and any other information requested by the ***system*** [~~board~~].

(3) Upon receiving the information required by subsection (2) of this section, the ***system*** [~~board~~] shall credit each person with service [~~under the system~~] sufficient to guarantee that he or his survivors shall receive at a minimum the benefits to which he would be entitled under KRS 26.660, except that the service required for vesting shall be that required by the system rather than that required by KRS 26.650 or 26.652. In addition, each individual's contributions to the plan under which he was covered as of December 31, 1977, shall be credited to his account in the system.

(4) Each person covered by the system under this section shall have the same rights and responsibilities as any other member or retiree of the system but at no additional cost to the person.

(5) Each city with a pension plan established under KRS 26.650 or 26.652 as of July 31, 1976, shall pay to the ***system*** [~~board~~] an amount equal to that which would have existed in the police judge pension fund as of December 31, 1977, if the fund contained:

(a) The actual amount paid by each police judge making contributions to the fund, and

(b) Contributions by the city equal to the amount which would have been paid if the city had contributed to the fund at the rate provided for under KRS 61.565.

(6) Within five (5) years after the ***system*** [~~board~~] makes its determination, each city shall pay to the ***system*** [~~board~~] the amount computed by the ***system*** [~~board~~] under subsection (5) of this section. Any additional cost of funding benefits provided under subsection (3) of this section shall be paid by the state.

Section 15. KRS 61.540 is amended to read as follows:

(1) Under [~~such~~] administrative regulations ***promulgated*** [~~as are adopted~~] by the board, each member and each employer shall ***have on*** file ***at the retirement office*** [~~with the board~~], in ***the*** [~~such~~] form [~~as~~] the board ***prescribes*** [~~may prescribe~~], a statement of the facts pertaining to the member and [~~such~~] other information [~~as~~] the ***system requires*** [~~board may require~~]. Until ***the*** [~~such~~] statement is filed, no member or his beneficiary shall be eligible to receive any benefits under KRS 61.510 to 61.705 and 78.510 to 78.852.

(2) The ***system*** [~~board~~] shall prepare and ***make available upon request*** [~~furnish~~] to all members a summary plan description, written in a manner ***that can*** [~~calculated to~~] be understood by the average member or beneficiary, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the provisions of KRS 16.505 to 16.652, 61.510 to 61.705 and 78.510 to 78.852.

(3) The summary plan description shall include:

(a) The name of the retirement system, the name and address of the general manager, and the name, address and title of each member of the board of trustees;

(b) The name and address of the person designated for the service of legal process;

(c) The system's requirements for participation and benefits;

(d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;

(e) A description of the requirements for vesting of pension benefits;

(f) A ***reasonable*** list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;

(g) The sources of financing retirement benefits, and statutory requirements for funding;

(h) A statement after each actuarial valuation as to whether funding requirements are being met; and

(i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

(4) The ***system*** [~~board~~] may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and ***shall be made available upon request*** [~~furnished~~] to members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.

(5) The ***system*** [~~board~~] shall ***make available upon request*** [~~provide~~] to retirees and beneficiaries [~~so much of~~] the summary plan description [~~as they need to understand any changes in benefits which apply to them~~].

Section 16. KRS 61.541 is amended to read as follows:

(1) The creditable compensation of fee officers who receive salary, [~~or~~] fees, [~~or~~] maintenance, or other perquisites as a result of their official duties is the gross amount [~~thus~~] received decreased by the cost of salary paid deputies and clerks and the cost of office supplies and other official expenses.

(2) Each [~~such~~] officer shall estimate the amount of creditable compensation he expects to receive during a calendar year and shall report and pay employee contributions monthly on one-twelfth (1/12) of ***the*** [~~such~~] estimated creditable compensation.

(3) On or before April 30 of each fiscal year, each [~~such~~] officer shall ***have on*** file ***at*** [~~with~~] the retirement office a report of his actual creditable compensation during the previous calendar year. This report shall be in the form of an affidavit and shall be used by the retirement system as a basis of adjusting the individual's account in the retirement system.

(4) The retirement office shall make a calculation of the amount of the additional contributions due or the excess contributions paid during the previous calendar year. ***If*** [~~In the event~~] additional contributions are due, both the officer and employer shall pay such contributions on or before June 30 of the year in which the recalculation was made. ***If*** [~~In the event~~] the recalculation shows that excess contributions have been paid, both the officer and the employer shall be reimbursed the amount of overpayment.

(5) Refund of contributions or retirement allowances which might otherwise be due ***to the*** [~~such an~~] officer shall be withheld until the provisions of this section have been fully met.

Section 17. KRS 61.542 is amended to read as follows:

(1) Prior to the time the first retirement allowance payment is ***issued*** [~~drawn~~] by the State Treasurer:

(a) Each member may designate one (1) or more persons as a principal beneficiary or beneficiaries and one (1) or more persons as contingent beneficiary or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary. ***If*** [~~In the event~~] multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive. ***If*** [~~In the event~~] percentages are not indicated, payments will be disbursed equally to the named beneficiaries. In the event of death of any or all multiple beneficiaries, the deceased beneficiary's estate shall receive a lump sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive. This designation shall remain in full force and effect until changed by the member, except ***that*** a final divorce decree terminates an ex-spouse's status as beneficiary, unless the member redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree;

(b) ***If*** [~~In the event~~] the death of the principal beneficiary or beneficiaries ***precedes*** [~~precede~~] the death of the member, or ***if*** [~~in the event~~] the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries;

(c) ***If*** [~~In the event~~] the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to ***having on file at the retirement office*** [~~filing~~] the necessary forms prescribed under authority of KRS 61.590 because of circumstances rendering ***the*** [~~such~~] person unable to act, the contingent beneficiary shall become the principal beneficiary or beneficiaries; and

(d) ***If*** [~~In the event~~] the deaths of both the principal beneficiary or beneficiaries and the contingent beneficiary or beneficiaries precede the death of the member, the estate of the member becomes the beneficiary provided the member ***does*** [~~has~~] not ***have on file*** [~~filed~~] a notification of retirement ***at the retirement office*** [~~with the board~~].

(2) When the first retirement allowance payment is ***issued*** [~~drawn~~] by the State Treasurer and subsequent thereto:

(a) The beneficiary designated by the member on his notification of retirement, which shall be one (1) person, his estate or a trust or trustee, supersedes the designation of any and all previous beneficiaries. If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been ***issued*** [~~drawn~~] by the State Treasurer, the member may designate another beneficiary on his notification of retirement; and

(b) A member shall not have the right to change his beneficiary after the first benefit payment has been ***issued*** [~~drawn~~] by the State Treasurer. The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member or if the retired member had designated a spouse and they were divorced on the date of the retired member's death.

(3) ***If*** [~~In the event~~] a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under any other statute, [~~then in that event~~] the beneficiary or beneficiaries shall not be eligible for any of ***the*** [~~said~~] benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate shall become the beneficiary.

Section 18. KRS 61.543 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the retirement system while he is classified as regular full-time as defined in KRS 61.510 unless the employee did not elect to become a member as provided by subsection (2) of KRS 61.525, or unless the employee did not elect membership pursuant to KRS 61.545(3). After August 1, 1982, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4). Service credit will be allowed for each month ***the*** [~~such~~] contributions are deducted or picked up during a fiscal or calendar year, ***if*** [~~provided~~] the member receives creditable compensation for an average of one hundred (100) hours or more of work per month. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work.

(2) Employee contributions shall not be deducted from the creditable compensation of an employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit will be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit will be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555;

(b) A member on educational leave, approved by the Department of Personnel, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay employee contributions, or ***the*** [~~such~~] contributions shall be picked up in accordance with KRS 61.560 and his employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded; and

(c) An employee on educational leave, approved by the appointing authority, not to exceed one (1) year, or with additional approval of one (1) additional year, and not to exceed two (2) years within a five (5) year period, who is receiving a salary of less than seventy-five percent (75%) of full salary, may elect to retain membership in the system during ***the*** [~~such~~] period of leave. If the employee elects to retain membership in the system, he shall receive service credit by having employee contributions picked up in accordance with KRS 61.560. His employer shall pay employer contributions in accordance with KRS 61.565. If a tuition agreement is broken by the member, the employee and employer contributions paid or picked up during the period of educational leave shall be refunded to the contributor and no service credit shall be earned for the period of leave.

(4) The retirement office, upon detection, shall refund ***any*** erroneous employer and employee contributions made to the retirement system ***and any interest credited in accordance with KRS 61.575.***

Section 19. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) Employees participating in one (1) of the state administered retirement systems who are or have been employed by a school ***board*** [~~district~~] participating in the County Employees Retirement System to work less than twelve (12) months each year may purchase the additional months of service credit needed to total one (1) year of service credit. The employee or the school ***board*** [~~district~~] may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment ***shall*** [~~must~~] be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. Members who have service credit prior to July 1, 1990, or their employers, may purchase service credit for previous years if payment is made by August 1, 1991.

(3) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

Section 20. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky Employees Retirement System or the State Police Retirement System whose retirement date is July 14, 1984, or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the ***system*** [~~board of trustees of the Kentucky Retirement Systems~~]. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.705. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit, and the last participating Kentucky Employees Retirement Systems employer shall pay to the retirement system the value of the additional service credit based on the formula adopted by the board. All of a state policeman's sick leave balance, expressed in months, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652.

(3) The provisions of this section shall not apply to a participating agency whose employees are not employed by the Commonwealth until the agency certifies to the ***system*** [~~board~~] that a sick leave program has been formally adopted and is universally administered within the agency.

Section 21. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems or an employee of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain ***the*** [~~such~~] credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined

by the board of the respective retirement system.[~~, provided, however,~~] The provisions of KRS 161.470 ***shall*** [~~must~~] be met in order to regain ***the*** [~~such~~] credit in the Teachers' Retirement System. [~~and provided further, that~~] KRS 21.460 shall govern with respect to regaining credit in the judicial retirement plan or legislators' retirement plan. ***The*** [~~Such~~] payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. ***The*** [~~Such~~] payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in subsection (2) of KRS 78.540, may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment ***may*** [~~shall~~] be by lump sum ***or*** [~~except that~~] the employee may pay by increments. [~~The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.~~]

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in subsection (2) of KRS 61.525, may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment ***may*** [~~shall~~] be by lump sum ***or*** [~~except that~~] the employee may pay by increments. [~~The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.~~]

(4) An employee may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment ***may*** [~~shall~~] be by lump sum ***or*** [~~except that~~] the employee may pay by increments. [~~The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.~~] Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) An employee who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958, may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System who was formerly employed by an area development district created pursuant to KRS 147A.050 which does not participate in the County Employees Retirement System may obtain credit for the period of his service with the area development district by paying to the retirement system in which he participates the full cost of the service credit purchased, as determined by the ***board's*** [~~system~~] actuary. Payment ***may*** [~~shall~~] be by lump sum ***or*** [~~except that~~] the employee may pay by increments. [~~The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.~~]

(6) Effective August 1, 1988, service credit obtained under subsections (1) to (5), (8) to (12), (14) and (15) of this section shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member, upon request, if the member does not obtain for service performed six (6) months' current service credit in one (1) of the state-administered retirement systems or as an employee of a parted employer. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has obtained for service performed six (6) months' current service credit in one (1) of the retirement systems administered

by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by ***a defined benefit*** [~~an advance funded~~] retirement program [~~in which he could vest during his period of employment~~], or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employees, Kentucky Employees Retirement System or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for ***the*** [~~such~~] service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of ***the*** [~~such~~] service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for ***the*** [~~such~~] service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) Members who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for ***the*** [~~such~~] service performed after January 1, 1960, ***if*** [~~provided~~] the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on ***a calendar*** [~~an annual~~] or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4). ***Any non-certified employee*** [~~Teacher aides, secretaries, custodial personnel, and cafeteria employees~~] of a school ***board*** [~~district~~] may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on ***a calendar*** [~~an annual~~] or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment ***may*** [~~shall~~] be by lump sum ***or***[~~, except that~~] the employee may pay by increments. ***If the average number of hours of work is less than eighty (80) per month, the non-certified employee of a school board shall be allowed credit only for those months he receives creditable***

compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4) [~~The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for~~].

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, ***shall*** [~~will~~] have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. The employee may elect to stop the installment payments by notifying the retirement system; [~~or~~] may have the installment purchase recalculated to add one (1) or more additional service purchases***;*** or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments ***shall*** [~~will~~] be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee dies, retires, terminates employment, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have ***sixty (60)*** [~~thirty (30)~~] days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments***,*** or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection ***(16)***[~~(15)~~](e) or (f) of this section and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, or 78.520 to 78.852 by transferring funds directly from a retirement plan maintained by his employer which is a qualified plan pursuant to Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan pursuant to the rules specified in Section 402(a)(5) of the Internal Revenue Code and the Kentucky Retirement Systems shall accept the transfer or rollover. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is age sixty-five (65) or older and has forty-eight (48) months service or, if younger, who has sixty (60) months service may purchase credit in the Kentucky Employees Retirement System for up to ten (10) years service that was credited to a state administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) Any employee participating in the County Employees Retirement System and determined to be in a hazardous position, who has sixty (60) or more months of service, may purchase credit in the County Employees Retirement System for up to ten (10) years of service that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible under subsection (16)(h) of this section and to the extent permitted by other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

Section 22. KRS 61.555 is amended to read as follows:

(1) Any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of ***active military duty*** [~~service~~] in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of ***active military duty*** [~~service~~] in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his ***active military duty*** [~~service~~], necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of ***active military duty*** [~~service~~] in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with ***the*** [~~such~~] service under subsections (1) to (3) of this section ***if*** [~~provided~~] he pays thirty-five percent (35%) of the cost of ***the*** [~~such~~] service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%)

shall be paid by the state from funds appropriated specifically for ***the*** [~~such~~] purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the ***system*** [~~board~~] shall not accept employee payments until [~~such time as~~] funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for ***active*** military ***duty*** [~~service~~] as provided under subsection (4) of this section without payment of the current employee contribution ratio if ***the*** [~~such~~] member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service (or his beneficiary if the member dies prior to retirement) shall receive current service for a maximum of four (4) years for his period of ***active military duty*** [~~service~~] in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with ***the*** [~~such~~] service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. [~~The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.~~] The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; ***but***[~~, provided that~~] nothing in this section shall prohibit ***the*** [~~such~~] purchase of credit ***if*** [~~where~~] the military pension results from service primarily on inactive duty in a reserve component of the armed forces, or ***if*** [~~where~~] the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

Section 23. KRS 61.557 is amended to read as follows:

(1) Inasmuch as the takeover of the Kentucky State Employment Service by the federal government, through its United States Employment Service and War Manpower Commission, was recognized by both federal and state governments as a temporary measure during the war emergency, and the [~~said~~] employment service was, in fact, returned to the state government at the close of the emergency period, the employees of ***the*** [~~said~~] service are recognized as employees of the Commonwealth for the purposes of KRS 61.510 to 61.692 during the period of control by the federal government, ***in*** [~~just~~] the same ***manner*** as if they had been employed in another department of the government of the Commonwealth during that period.

(2) ***If*** [~~Should~~] a parted employer ***rejoins*** [~~rejoin~~] a department as a result of the cancellation of a contract or lease arrangement, thereby causing each employee thereof to again become an employee as defined in KRS 61.510(5), the ***system may*** [~~board is hereby authorized to~~] negotiate with the publicly held corporation or other similar organizations for payment for the years of service credit under the system for all employees working on the date the contract or other lease arrangement is cancelled in order to avoid an impairment in the retirement benefits of ***the*** [~~said~~] employees, ***if*** [~~provided~~] any payment accepted by the ***system*** [~~board~~] for ***the*** [~~such~~] service is based on a formula consistent with the provisions of KRS 61.552(7). No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

Section 24. KRS 61.565 is amended to read as follows:

(1) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, [~~and~~] each employer participating in the County Employees Retirement System as provided for in KRS 78.520 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.515 to 61.705 shall contribute annually to the respective retirement system an amount equal to the percent, as computed under subsection (2) of this section, of the creditable compensation of its employees[~~, including the assumed creditable compensation of firefighters employed by a district created pursuant to KRS 75.010,~~] to be known as the "normal contributions," and an additional amount to be known as the "past service contribution" which shall be computed by amortizing the total unfunded past service liability over a period of thirty (30) years using the level-percentage-of-payroll method. This method shall be used beginning with the 1990 actuarial valuation. The initial thirty (30) year amortization period shall

begin with the 1990 valuation. Any significant increase in past service liability due to benefit improvements after the 1990 valuation shall be amortized using the level-percentage-of-payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.

(2) The normal contribution rate shall be determined by the entry age normal cost funding method. The past service liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the past service liability contribution shall be determined on actuarial bases adopted by the board.

(3) Normal contribution and the past service contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium. The board may amend contribution rates as of July 1 of the second year of a biennium, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of subsections (1) and (2) of this section.

(4) The ***system*** [~~board~~] shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section.

Section 25. KRS 61.569 is amended to read as follows:

(1) A reinstated employee who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission shall tender to the ***system*** [~~retirement board~~] the member contribution he would have paid on the creditable compensation he would have earned as defined under KRS 18A.105 had he not been dismissed. The employer shall pay the employer contributions as defined under KRS 18A.105 on the member's creditable compensation.

(2) No service credit shall be allowed for any time that the member contributions are not paid.

Section 26. KRS 61.580 is amended to read as follows:

The retirement allowance account shall be the account in which shall be accumulated all employer contributions ***and***[~~,~~] amounts transferred from the members' contribution account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the ***system and the*** board ***incurred*** in ***administration of*** [~~administering~~] the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the members' contribution account the interest credited annually to each member's individual account as provided by KRS 61.575.

Section 27. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, 78.510 to 78.852 and 16.510 to 16.652 shall ***have on*** file ***at the retirement office*** [~~with the board~~] on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment and [~~such~~] other information [~~as~~] the ***system*** [~~board~~] may require.

(2) Within ten (10) days of the receipt of the notification of retirement form, the ***system*** [~~board~~] shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled[~~,~~] "Estimated Retirement Allowance"[~~,~~] and forwarded to the member or beneficiary.

(3) The member or beneficiary shall ***file at the retirement office*** [~~return~~] the form entitled[~~,~~] "Estimated Retirement Allowance"[~~, to the retirement office~~] after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been ***issued*** [~~drawn~~] by the State Treasurer.

(4) A member or beneficiary choosing a monthly payment plan shall ***have on*** file ***at the retirement office*** his birth certificate or other acceptable evidence of date of birth. ***If*** [~~In the event~~] a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be ***on file at the retirement office*** [~~filed~~].

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement

shall be the first month following the month in which the member's last day of paid employment occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed ***at*** [~~with~~] the retirement office, ***if*** [~~provided~~] employment has been terminated.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(6) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section ***if*** [~~should~~] the member ***dies*** [~~die~~] before the first retirement allowance has been ***issued*** [~~drawn~~] by the State Treasurer and his beneficiary ***becomes*** [~~be~~] eligible for payments under KRS 16.578 or 61.640.

Section 28. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the positions of probation and parole officer[~~,~~] and Commonwealth detective), active fire suppression or prevention, or other positions, including but not limited to pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Corrections Cabinet in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request ***of the board*** hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the ***system,*** [~~board~~] in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The ***system*** [~~board~~] shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the ***system*** [~~board~~] to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the ***system*** [~~board~~] to be working in a hazardous position at the employer contribution rate as determined by the board. The rate ***shall*** [~~will~~] be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) ***If*** [~~In the event~~] the employer participated in the system prior to electing hazardous duty coverage, ***the*** [~~then said~~] employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. ***If*** [~~Should~~] the employer ***elects*** [~~elect~~] not to make the additional payment, [~~then~~] the employee may make the lump-sum payment in his own behalf or may pay ***by*** [~~in his own behalf in~~] increments [~~by payroll deduction each pay period prior to his retirement~~]. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance, [~~and~~] other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the ***system*** [~~board~~] upon request.

(6) ***If*** [~~In the event of~~] doubt ***exists*** regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 29. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and one and ninety-seven hundredths percent (1.97%) for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the ***system*** [~~board~~], except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any [~~such~~] member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service but a member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education may count the vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. The credit from a Kentucky institution of higher education shall not be used[~~, however,~~] to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the State Treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 30. KRS 61.600 is amended to read as follows:

(1) ***Any person may qualify to retire on disability, subject to the following conditions:***

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1) or 78.615(1);

(b) The person shall be less than normal retirement age;

(c) The person's application shall be on file in the retirement office no later than twelve (12) months after the person's last day of paid employment in a regular full-time position; and

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665.

(2) Upon the examination by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment;

(b) The incapacity is a result of bodily injury, mental illness, or disease;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, disease, or condition which pre-existed membership in the system or reemployment, whichever is most recent.

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, disease, or condition which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The disabled recipient has returned to work on a trial basis not exceeding nine (9) months [~~An employee with sixty (60) months of service, twelve (12) months of which shall be current service, may retire at any time before his normal retirement date on account of disability upon written notification to the board. Application for disability benefits shall be made within twelve (12) months of his last paid day of employment. Upon the examination by licensed physicians, it shall be determined that the employee, since his last day of paid employment, has been mentally or physically incapacitated to perform his job or jobs of like duties from which he received his last paid employment and that the disability did not pre-exist at the time of membership in the system or upon reemployment, except in case where a disabled recipient has returned to work on a trial basis and is a result of bodily injury, mental illness, or disease and that the incapacity is deemed to be permanent~~].

(4)[~~(2)~~] ***An incapacity*** [~~A disability~~] shall be deemed to be permanent if ***it*** [~~that disability~~] is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the ***person's*** [~~employee's~~] last day of paid employment ***in a regular full-time position.*** For the purposes of determining permanence under this section, the board's medical examiners shall use the medical criteria under the Social Security disability program.

(5)[~~(3)~~] ***Persons*** [~~Employees~~] who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection ***(4)*** [~~(2)~~] of this section.

Section 31. KRS 61.607 is amended to read as follows:

Notwithstanding any other provisions of KRS 16.505 to 16.652, 61.510 to 61.705 or 78.510 to 78.852, a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employee's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employee's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

(1) Add the monthly benefit payable to the disabled employee from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from Social Security, even though these payments may not begin for a period of time as required for qualification under the federal Social Security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit.

(2) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay or his final compensation, whichever is greater, his disability retirement allowance from the retirement system shall be reduced to an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his final rate of pay or his final compensation, whichever is greater; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his disability retirement allowance from the retirement system using the disabled employee's actual total service.

(3) The ***system may*** [~~board is hereby authorized to~~] pay estimated benefits to a disabled employee, upon qualification for disability retirement, based on an estimate of his Social Security and workers' compensation benefits until ***the*** [~~such~~] amouns are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.

(4) Any increase in Social Security benefits or workers' compensation benefits which becomes law, regardless of their effective date, subsequent to the disabled employee's effective retirement date, shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date.

(5) Any disabled recipient whose potential payments from the system ***were*** [~~where~~] reduced as provided for in this section shall advise the ***system*** [~~board~~] if his payments under the federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his effective retirement date. Upon investigation, ***if*** [~~should~~] the ***system determines*** [~~board determine~~] that ***the*** [~~such~~] disabled recipient continues to be eligible for disability benefits, the ***system*** [~~board~~] may increase his retirement allowance by adding to his payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (2) of this section.

Section 32. KRS 61.610 is amended to read as follows:

(1) Once each year following the retirement of a member on a disability retirement allowance, the ***system*** [~~board~~] may require ***the*** [~~such~~] person, prior to his normal retirement date, to undergo a ***financial and*** medical ***staff review and, if necessary, be required to submit current medical information*** [~~examination~~]. ***If*** [~~Should~~] he ***refuses*** [~~refuse~~] to submit to ***a*** [~~any such~~] medical examination, his retirement allowance shall be discontinued until his withdrawal of [~~such~~] refusal, and ***if the*** [~~should such~~] refusal ***continues*** [~~continue~~] for one (1) year, all his rights to any further disability allowance shall cease.

(2) Disability retirees whose effective retirement date is August 1, 1988, or thereafter shall undergo an annual financial and medical staff review and, if necessary, be required to submit current medical information.

Section 33. KRS 61.615 is amended to read as follows:

(1) ***If a*** [~~Whenever the~~] recipient of a disability retirement allowance is, prior to his normal retirement date, ***employed in a position with the same or similar duties as the position from which he was disabled*** [~~engaged in gainful occupation~~], the board [~~at its discretion~~] may reduce ***the*** [~~such~~] retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the ***system*** [~~board~~] of ***any*** [~~such~~] employment, otherwise, the ***system*** [~~board~~] shall have the right to recover payments made during ***the*** [~~such~~] employment.

(2) ***If*** [~~Should~~] it ***is*** [~~be~~] determined that any disabled recipient is able to ***be employed in a position with the same or similar duties as the position from which he was disabled*** [~~engage in gainful occupation~~], and ***if*** [~~should~~] the board ***finds*** [~~find~~] that ***the*** [~~such~~] person [~~shall have~~] refused any employment considered

by the board suitable to his capacity, he shall not be entitled to any [~~such~~] allowance during the continuance of ***his*** [~~such~~] refusal, unless in the opinion of the board ***his*** [~~such~~] refusal was justified.

(3) The ***system*** [~~board~~] shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the ***system*** [~~board~~] shall utilize procedures consistent with KRS 61.665, including services of an examiner***,*** in determining the amount of reduction in retirement allowance under this section.

(4) If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

(a) The member may not change his beneficiary or payment option;

(b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2) and further reduced by the actuarial value of the total amount of the disability retirement allowances he has received prior to reduction or discontinuation;

(d) The member shall remain eligible for reinstatement of his disability allowance upon re-evaluation by the medical review board until his normal retirement age; and

(e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(5) No disability retirement allowance shall be reduced or discontinued by the ***system*** [~~board~~] after the member's normal retirement date except in case of re-employment as provided for by KRS 61.637. ***If*** [~~In any case where~~] a disability retirement allowance has been reduced or discontinued, except ***if*** [~~where~~] the member is re-employed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment.[~~, provided however,~~] No reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 34. KRS 61.625 is amended to read as follows:

If a member's employment has been terminated or if the member is employed by a participating employer in an employment status ***as defined in KRS 61.510(21)(a) to (d) or 78.510(21)(a) to (d),*** that does not require the member to participate in the system, the member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employee contributions picked up by the employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received. Payments made under this section shall be in lieu of any other benefits due for ***the*** [~~such~~] period of service under any of the provisions of KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852, unless ***the*** [~~such~~] period of service is regained as provided under KRS 61.552. Payments of picked up employee contributions shall be subject to state and federal tax as appropriate.

Section 35. KRS 61.626 is amended to read as follows:

(1) The accumulated contributions of a member not in service may be transferred from the member account to the retirement allowance account if the member's account has remained inactive and the ***system*** [~~board~~] has been unable to locate the member for a period of seven (7) years.

(2) If the member or his beneficiary, in the event of his death, requests benefits as provided by KRS 61.510 to 61.705, 16.510 to 16.652 and 78.510 to 78.852, the transfer shall be reversed, and benefits paid in accordance with the provisions of KRS 61.510 to 61.705, 16.510 to 16.652 and 78.510 to 78.852.

Section 36. KRS 61.630 is amended to read as follows:

(1) ***If*** [~~Should~~] a retired member who did not elect an optional retirement plan ***dies*** [~~die~~] at any time after retirement but before receiving total retirement allowances provided in KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 at least equal to his accumulated contributions as of the date of his retirement, the difference between ***the*** [~~such~~] accumulated contributions and ***the*** [~~such~~] total allowances shall [~~then~~] be payable in a lump sum to the properly designated beneficiary, if then living***, or***[~~; otherwise,~~] to the estate of the deceased retired member.

(2) ***If*** [~~Should~~] a retired member who elected an optional retirement plan and his beneficiary both die at any time after retirement of the member but before receiving total retirement allowances provided in KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 at least equal to the retired member's accumulated contributions as of the date of his retirement, the difference between ***the*** [~~such~~] accumulated contributions and ***the*** [~~such~~] total allowances shall [~~then~~] be payable in a lump sum to the estate of the last deceased. ***If*** [~~In the event of~~] the [~~simultaneous death of the~~] retired member and beneficiary ***die simultaneously***, the estate of the retired member shall become the beneficiary.

(3) ***If*** [~~Should~~] a beneficiary receiving a lifetime retirement allowance under KRS 16.578 or 61.640 ***dies*** [~~die~~] before receiving total retirement allowances provided in KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 at least equal to the member's accumulated contributions as of the date of the member's death, the difference between ***the*** [~~such~~] accumulated contributions and ***the*** [~~such~~] total allowances shall [~~then~~] be payable in a lump sum to the estate of the beneficiary.

(4) ***If*** [~~Should~~] a beneficiary receiving a retirement allowance for one hundred twenty (120) months certain under KRS 16.578 or 61.640, [~~or~~] a beneficiary receiving a retirement allowance under the life with ten (10) years certain option selected by the member under KRS 61.635(5), or a beneficiary receiving a retirement allowance for the duration of ten (10) years certain as prescribed in ***KRS 16.576 dies*** [~~Chapter 128, Section 4(6), Acts of the 1974 General Assembly die~~] before receiving all payments under the plan, the executor or administrator of his estate may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or ***the*** [~~said~~] executor or administrator may elect to continue the remaining monthly payments to the estate of the beneficiary.

Section 37. KRS 61.635 is amended to read as follows:

(1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705 and 78.520 to 78.852. The amount of any [~~such~~] optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

(2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have ***the*** [~~such~~] retirement allowance continued after his death to his beneficiary during the lifetime of ***the*** [~~such~~] person.

(3) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during his lifetime and have two-thirds (2/3) of ***the*** [~~such~~] retirement allowance continue after his death to his beneficiary during the lifetime of ***the*** [~~such~~] person.

(4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his lifetime and have one-half (1/2) of ***the*** [~~such~~] retirement allowance continued after his death to his beneficiary during the lifetime of ***the*** [~~such~~] person.

(5) Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred twenty (120) months. If the member ***dies*** [~~should become deceased~~] before receiving payments for one hundred twenty (120) months, his beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period. ***However,***[~~, except~~] if the estate or trust is designated as beneficiary, the executor or administrator of the estate or trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or ***the*** [~~said~~] executor or administrator or trustee may elect to continue the remaining monthly payments to the estate or trust of the member.

(6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred and eighty (180) months. If the member ***dies*** [~~should become deceased~~] before receiving payments for one hundred and eighty (180) months, his beneficiary shall receive the remaining payments monthly for the duration of the one hundred and eighty (180) months' period. ***However***, [~~except~~] if the estate or trust is designated as beneficiary, the executor or administrator of the estate or trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or ***the*** [~~said~~] executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.

(7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for two hundred and forty (240) months. If the member ***dies*** [~~should become deceased~~] before receiving payments for two hundred and forty (240) months, his beneficiary shall receive the remaining payments for the duration of the two

hundred and forty (240) months period. ***However,*** [~~except~~] if the estate or trust is beneficiary, the executor or administrator of the estate or the trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or ***the*** [~~said~~] executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.

(8) Social Security adjustment options. These options ***shall be*** [~~are~~] available to any member who has not attained age sixty-two (62) as follows:

(a) No survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his lifetime;

(b) Survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, ***if*** [~~provided~~] the retirement allowance shall be decreased in the month following the month he attains age sixty-two (62), or the month following the month he would have attained age sixty-two (62), in event of his death, and have ***the*** [~~such~~] retirement allowance continue after his death to his beneficiary during the lifetime of ***the*** [~~such~~] person.

(9) Beneficiary Social Security adjustment option. This option is available to the beneficiary of a deceased member ***if the*** [~~where such~~] beneficiary has not attained age sixty (60), and is eligible to receive Social Security payments at age sixty (60). The beneficiary may elect to receive during his lifetime an increased retirement allowance based on his annual benefit payable for life. ***The*** [~~Such~~] payment shall begin on his effective retirement date and continue through the month he attains age sixty (60) at which time his retirement allowance shall be decreased for the remainder of his lifetime.

(10) Pop-up option. The member may elect to receive a decreased retirement allowance during his lifetime and have ***the*** [~~such~~] retirement allowance continued after his death to his beneficiary during the lifetime of ***the*** [~~such~~] person. If the beneficiary dies prior to the member, or if the beneficiary is the member's spouse and they divorce, the member's retirement allowance ***shall*** [~~will~~] increase to the amount that would have been payable as a single life annuity.

(11) Actuarial equivalent refund. The member may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).

(12) In addition to the optional forms of annuities permitted under this section, the board may establish [~~such~~] additional optional forms of annuities. ***The*** [~~as it deems desirable. Such~~] additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

(13) The other provisions of this section notwithstanding, the beneficiary of a retired member of the General Assembly shall, after the member's death, receive sixty-six and two-thirds percent (66 2/3%) of the member's retirement allowance during his or her lifetime if the member of the General Assembly has elected this option and has made contributions in accordance with subsection (14) of this section and of KRS 61.560. The retirement allowance of the retired member of the General Assembly shall not be actuarially reduced to provide for this survivor benefit.

(14) A member of the General Assembly who wishes to obtain the survivorship option specified in subsection (13) of this section shall so notify the Kentucky retirement systems:

(a) Within thirty (30) days after first becoming a member of the General Assembly if he is not a member of the General Assembly on July 15, 1980; or

(b) Within thirty (30) days after July 15, 1980, ***if he is a member*** [~~in the case of persons who are members~~] of the General Assembly on July 15, 1980.

(15) The ***system*** [~~board of directors of the Kentucky retirement systems~~] shall [~~prepare and~~] forward to members of the General Assembly a form on which a member may elect the option provided for in subsections (13) and (14) of this section.

(16) The options described in subsections (2), (3), (4), (8)(b), (10) and (13) of this section shall be extended to the member only ***if*** [~~where~~] the designated beneficiary is a person.

Section 38. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency shall have his retirement payments suspended for the duration of [~~such~~] reemployment. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during [~~such~~] reemployment except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, ***if*** [~~provided~~] he does not receive more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) ***If*** [~~In the event~~] the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) ***If*** [~~In the event~~] the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in subsection (1) of KRS 61.595;

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in subsection (2) of KRS 61.595, except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3.[~~; provided, however,~~] The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except ***the*** [~~such~~] retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned during reemployment over the maximum permissible earnings.

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

[~~(7) In the event a retired hazardous position member or a member of the State Police Retirement System is receiving benefits under partial disability as provided for under KRS 16.586 and is reemployed in a nonhazardous position, the board is hereby authorized to waive or modify the foregoing provisions of this section and permit such person to receive a partial disability retirement allowance while accruing retirement benefits in a nonhazardous position.~~]

Section 39. KRS 61.640 is amended to read as follows:

(1) If an employee who is of normal retirement age or greater is in the active employment of a participating agency, or on official leave from ***the*** [~~such~~] agency, ***if the*** [~~provided such~~] leave has been granted in accordance with the policy of the State Department of Personnel, with service credit of forty-eight (48) months or more, at least twelve (12) of which are current service, or if an employee of less than normal retirement age is in the active employment of a participating agency or on official leave from ***the*** [~~such~~] agency, ***if the*** [~~provided such~~] leave has been granted in accordance with the policy of the State Department of Personnel, with service credit of sixty (60) months, at least twelve (12) of which are current service, dies at any time before the first retirement allowance payment has been ***issued*** [~~drawn~~] by the State Treasurer and has on file ***at the retirement office*** [~~with the board~~] at the time of his death a written designation of a beneficiary, ***the*** [~~then said~~] beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the [~~said~~] beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the [~~said~~] beneficiary may elect the actuarial equivalent refund.

(2) If a member not in the active employment of a participating agency, nor on official leave from ***the*** [~~such~~] agency, with the service and age prescribed in KRS 61.559(2), dies before the first retirement allowance payment has been ***issued*** [~~drawn~~] by the State Treasurer and has on file ***in the retirement office*** [~~with the board~~] at the time of his death a written designation of a beneficiary, ***the*** [~~then said~~] beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had he chosen benefits payable under KRS 61.635(2); or the [~~said~~] beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the [~~said~~] beneficiary may elect the actuarial equivalent refund.

(3) If a member, not in the active employment of a participating agency nor on official leave from ***the*** [~~such~~] agency, with twelve (12) or more years of service credit at least one (1) of which is current service, dies at any time before the first retirement allowance payment has been ***issued*** [~~drawn~~] by the State Treasurer and has on file ***in the retirement office*** [~~with the board~~] at the time of his death a written designation of a beneficiary, ***the*** [~~then said~~] beneficiary may elect to receive an annual benefit payable monthly commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive, based on his age, years of service, and final compensation at date of his death, had the member been eligible for retirement and had he chosen benefits payable under KRS 61.635(2); or the [~~said~~] beneficiary may elect the actuarial equivalent payable for sixty (60) months certain; or ***the*** [~~said~~] beneficiary may elect the actuarial equivalent payable for one hundred twenty (120) months certain; or the ***the*** [~~said~~] beneficiary may elect the actuarial equivalent refund.

(4) An alternative calculation of benefits payable to the beneficiary under subsection (1), (2) or (3) of this section shall be determined by computing an annual benefit payable commencing in the month following the member's death which shall be equivalent to the benefit the member would have been entitled to receive based on his years of service and final compensation at the date of his death reduced by the survivorship fifty percent (50%) factor as provided for in KRS 61.635(4) then reduced by fifty percent (50%), and the actuarial equivalent payable for sixty (60) months certain and one hundred twenty (120) months certain and the actuarial equivalent refund shall be determined.

(5) If the member, subject to subsection (1), (2), (3) or (4) of this section had on file ***in the retirement office*** a written designation of multiple beneficiaries, [~~or~~] his estate, [~~or~~] trust, or trustee, ***the*** [~~then said~~] multiple beneficiaries by consensus, [~~or~~] the administrator, or executor of ***the*** [~~said~~] estate, or trustee may elect to receive the actuarial equivalent to the benefit allowable under subsections (1), (2), (3) or (4) of this section given the assumptions that the beneficiary's age is the same as the member's, and that the member had chosen benefits payable monthly for sixty (60) months certain, or one hundred and twenty (120) months certain, or an actuarial equivalent refund.

(6) Actuarial equivalent refund. The beneficiary may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent to the amount payable under KRS 61.635(2) for a period of sixty (60) months. In the case of designation of multiple beneficiaries, an estate, [~~or~~] trust, or trustee, the multiple beneficiaries by consensus, [~~or~~] trustee, [~~or~~] executor, or administrator of the estate may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable under KRS 61.635(2), assuming the beneficiary's age to be the same as the member's for a period of sixty (60) months.

(7) In the case of a single beneficiary, the highest monthly benefit determined under subsection (1), (2), (3), (4) or (6) of this section for a life annuity or for payments for sixty (60) months certain or for payments for one hundred twenty (120) months certain or for the actuarial equivalent refund or for the beneficiary Social Security payment shall be tendered to the beneficiary. In the case of designation of multiple beneficiaries, an estate, [~~or~~] trust, or trustee, the highest monthly benefit determined under subsection (1), (2), (3), (4), (5) or (6) of this section for payments for sixty (60) months certain or one hundred and twenty (120) months certain or the actuarial equivalent refund shall be tendered to the multiple beneficiaries, [~~or~~] trustee, [~~or~~] administrator, or executor of the estate.

Section 40. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the Board of Trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) The state local finance officer shall serve as trustee for as long as he occupies the position of state local finance officer under KRS 147A.020, except as provided under subsections (5) and (6) of this section;

(c) Two (2) trustees, who ***shall*** [~~must~~] be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(d) One (1) trustee, who ***shall*** [~~must~~] be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(e) Two (2) trustees, who ***shall*** [~~must~~] be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System;

(f) Two (2) trustees, appointed by the Governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require without limitations of KRS 45A.045;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until ***the*** [~~such~~] elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978;

(d) The state local finance officer shall have an initial term beginning on April 1, 1992.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by ***the*** [~~said~~] retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and ***if*** [~~should~~] the commissioner of personnel or the state local finance officer ***resigns*** [~~resign~~] his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee ***shall*** [~~may~~] serve in more than one (1) position as trustee on the board*;* and ***if*** [~~should~~] a trustee ***holds*** [~~be in~~] more than one (1) position as trustee on the board, he ***shall resign a*** [~~is hereby permitted a choice of resigning any~~] position. No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with [~~normal~~] state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint ***the*** [~~such~~] employees [~~as~~] he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and ***the*** [~~such~~] employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, [~~that it deems~~] necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, ***the*** [~~such~~] provisions shall not be available to the member and the board shall have the authority to adopt alternative administrative regulations that are in conformance with federal statute and regulation.

(10) All employees of ***the*** [~~said~~] board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. [~~and~~] The Attorney General may act as legal adviser and attorney for the board and the board ***may*** [~~is hereby authorized to~~] contract for legal services, notwithstanding the limitations of KRS Chapter 12.

(12) The ***system*** [~~board~~] shall [~~prepare and~~] publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The ***system*** [~~board~~] shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in [~~such~~] other places as [~~may be~~] necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the ***system and the*** board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within ***sixty (60)*** [~~one hundred twenty (120)~~] days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) (a) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with the administrative regulation promulgated by the board. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court within thirty (30) days of the final order. No new or additional evidence shall be introduced and the court shall decide the case upon the record as attested.

(b) In the discharge of its duties, the board or its delegate may conduct hearings, administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, documents, correspondence, memoranda, and other records considered necessary and relevant as evidence in connection with the administration of the systems. A subpoena shall be served in the same manner as a subpoena issued by a Circuit Court, and the sheriff, if he serves the subpoena, shall receive the same fee as provided by law for like service in civil actions. In case of refusal to obey a subpoena issued to any person, any Circuit Court of competent jurisdiction, upon application by any party, may issue to that person an order requiring him to comply with the terms of the subpoena. Failure to obey the order of the court may be punished as contempt of court.

Section 41. KRS 61.660 is amended to read as follows:

(1) The State Treasurer shall be the custodian of the funds received under authority of KRS 61.510 to 61.705, 16.510 to 16.652 and 78.510 to 78.852 and shall be responsible for the safekeeping of all cash and securities in his custody. All payments from ***the*** [~~said~~] fund shall be made by him on warrants issued by the Finance and Administration Cabinet. Payments may be in the form of checks, ***which shall clearly show on the envelope or other mailing device the name and address of the Kentucky Retirement Systems,*** or direct deposit bank transfers.

(2) The board shall appoint a custodian or custodians of the securities acquired under authority of KRS 61.510 to 61.705, 16.510 to 16.652 and 78.510 to 78.852; and the custodian or custodians shall be responsible for the safekeeping of securities in his custody.

Section 42. KRS 61.661 is amended to read as follows:

(1) Each member's account shall be administered in a confidential manner and specific data regarding a member shall not be released for publication unless authorized by the member; however, the ***system*** [~~board~~] may release member account information to the employer or to other state and federal agencies as it deems

necessary or in response to a lawful subpoena or order issued by a court of law. The member's account shall be exempt from the provisions of KRS 171.410 to 171.990.

(2) When a subpoena is served upon any employee of the Kentucky Retirement Systems, requiring production of any specific data regarding a member, it is sufficient if the employee of the Kentucky Retirement Systems charged with the responsibility of being custodian of the original delivers within five (5) working days, by certified mail or by personal delivery, legible and durable copies of records, certified by the employee, or an affidavit stating the information required by the subpoena to the person specified in the subpoena.

(3) The certification shall be signed before a notary public by the employee and shall include the full name of the member, the member's Social Security number and a legend substantially to the following effect: "The records are true and complete reproductions of the original or microfiched records which are housed in the retirement systems office. This certification is given in lieu of his or her personal appearance."

(4) When an affidavit or copies of records are personally delivered, a receipt shall be presented to the person receiving the records for his signature and shall be immediately signed and returned to the person delivering the records. When an affidavit or copies of records are sent via certified mail, the receipt used by the postal authorities shall be sufficient to prove delivery and receipt of the affidavit or copies of records.

(5) When the affidavit or copies of records are delivered to a party for use in deposition, they shall, after termination of the deposition, be delivered personally or by certified mail to the clerk of the court or other body before which the action or proceeding is pending.[~~, and~~] It shall be the responsibility of ***the*** [~~such~~] party or attorney to transmit the receipt obtained to the employee of the Kentucky Retirement Systems charged with responsibility of being custodian of the original. Upon issuance of a final order terminating the case and after the normal retention period for court records expires, the affidavit or copies of records shall be permanently disposed of by the clerk in a manner that protects the confidentiality of the information contained therein.

(6) Records of the Kentucky Retirement Systems that are susceptible to photostatic reproduction may be proved as to foundation, identity, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in accordance with the provisions of this section.

Section 43. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon [~~such~~] terms and conditions [~~as~~] it ***prescribes to serve as medical examiners*** [~~may prescribe~~], whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, [~~and~~] to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to ***the*** [~~such~~] person under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and ***who*** shall report in writing to the ***system*** [~~board~~] the conclusions and recommendations upon all matters referred to them.

(2) (a) Each employee requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also submit a complete description of the job and duties from which he received his last pay;

(b) The employer shall submit a complete description of the job and duties for which the employee was last paid;

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be ***completed and*** filed ***at the retirement office*** [~~with the board~~];

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office;

(e) The ***system*** [~~board~~] shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the ***system*** [~~board~~] shall submit the member's application to two (2) additional medical examiners. Both of the additional medical examiners ***shall*** [~~must~~] recommend approval of disability benefits to overturn the original recommendation. Recommendations by the examiners shall be submitted to the board for approval;

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee;

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to submit additional medical information to the retirement office or to appeal his denial for disability benefits by requesting a formal hearing. An extension of time may be granted by the ***system*** [~~board~~] for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing;

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the ***system may*** [~~board is hereby authorized to~~] pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The ***system*** [~~board~~] may direct that a specialist be sought.

(3) Any person aggrieved by an order or determination of the system may request that a hearing be conducted by the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the ***system*** [~~board~~], they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may request a de novo formal hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement ***of the reasons*** [~~why~~] the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, unless upon resubmitting his request, he can prove to the ***system*** [~~board~~] a substantial change in his condition. This paragraph shall not limit the member's right to appeal to a court.

(c) Upon request pursuant to subsection (2)(g) of this section, the system shall schedule a hearing to be held not more than sixty (60) days after the notice of demand for a hearing has been received by the system, unless an extension is granted by the hearing officer for good cause shown. The hearing officer may recommend a favorable determination based upon the ***information in the member's file*** [~~preponderance of evidence~~] available prior to the hearing. If the recommended favorable action is approved, the hearing shall be canceled. The hearing officer shall not extend the time for a hearing beyond a total of one hundred twenty (120) days. The notice of hearing shall be served in accordance with subsection (6) of this section and shall include a statement of the time, place, and nature of the hearing.

(d) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of ***the*** [~~such an~~] examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(e) All formal hearings shall be de novo as to all issues of fact and law, ***and*** [~~provided that~~] those findings previously adjudicated by a final order of the system following a formal hearing shall be binding against any party or parties to subsequent formal hearings. Any party to a hearing may be represented by counsel, make oral or written argument, offer testimony, orally or by deposition, cross-examine witnesses, introduce direct testimony from a physician or other expert approved by the hearing officer through a written report, or take any combination of such actions. The system or the member may compel the production of documents by the issuance of subpoenas ***pursuant to KRS 61.645***. Witness testimony may be given by deposition in lieu of personal appearance. An impartial hearing officer appointed and paid by the board shall preside at the hearing, shall keep order, and shall conduct the hearing in accordance with reasonable administrative practice. Oaths and affirmations shall be administered by the hearing officer or court reporter. The hearing officer shall permit any party to represent himself. Failure to appear without good cause or failure to comply with any prehearing or interlocutory order of the hearing officer shall be grounds for a default.

(f) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded. When necessary to ascertain facts not reasonably susceptible of proof under judicial rules of evidence, evidence not admissible thereunder may be admitted, ***unless*** [~~except where~~] precluded by statute, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs. Hearing officers shall give effect to the rules of privilege recognized by law. Objections may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form. Upon request, parties shall be given an opportunity to compare the copy with the original. A party may conduct cross-examinations required for a full and true disclosure of the facts. Notice may be taken of generally recognized technical or scientific facts within the system's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data,***;***[~~,~~] and they shall be afforded an opportunity to contest the material so noticed. The system's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(g) Each formal hearing shall be recorded, and a transcript made available on the motion of any party or by order of the hearing officer. Unless otherwise agreed, the party requesting the transcript shall provide payment for the original, and all others desiring copies shall pay the cost thereof. When certified as a true and correct copy of the testimony by the system, the transcript shall constitute the official transcript of the evidence.

(h) The hearing officer shall make a determination after hearing and based on a preponderance of the evidence appearing in the record as a whole. The hearing officer shall prepare findings of fact and conclusions of law and may recommend an approval or a reduction, discontinuance or denial of disability benefits pursuant to subsection (2)(g) of this section or KRS 61.615(1).

(i) The hearing officer shall, within thirty (30) days of the close of the formal hearing make a report and a recommended order to the board. The report and recommended order shall contain the appropriate findings of fact and conclusions of law. If the board finds upon written request of the hearing officer that additional time is needed, [~~then~~] the board may grant a reasonable extension. The hearing officer shall mail, postage prepaid, a copy of his report and recommended order to all parties. The parties may file within ***fourteen (14)*** [~~seven (7)~~] days of ***receipt*** [~~mailing~~] of the hearing officer's report and recommended order exceptions to the report and recommended order. [~~There shall be no other or further submissions.~~]

(j) The board shall consider the report and recommended order and any exceptions filed and pass upon the case within a reasonable time in accordance with the ***administrative regulations adopted*** [~~policies and procedures established~~] by the board. The board may remand the matter to the hearing officer, adopt the report and ***recommended*** [~~recommend~~] order of the hearing officer as the system's final order, or issue their own final order.

(k) The system shall mail the final decision of the board to the member or his legal representative. If any extension of time is granted by the board for a hearing officer to complete his report, the system shall notify the member or his legal representative at the time of the granting of the extension.

(l) The board shall not grant extensions of time to the hearing officer for more than thirty (30) days for any one (1) extension, and no more than two (2) [~~such~~] extensions shall be granted.

(m) A final order ***of*** [~~for~~] the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(n) A final order of the board which alters or amends ***the*** [~~its~~] decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(o) There shall be no ex parte communications between the parties or representatives of the parties and the hearing officer regarding a particular member.

(p) Formal hearings shall be held at the system's office in Frankfort unless another location is determined by the hearing officer.

(q) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the ***board*** [~~system~~] may seek judicial review after all administrative appeals have been exhausted by filing suit in the Franklin Circuit Court within thirty (30) days after the requester receives notice, as described in subsection (6) of this section, of the ***board's*** [~~system's~~] determination. No new or additional evidence shall be introduced in that proceeding and the court shall hear the case upon the record as attested.

(6) Any notice or order reducing, discontinuing, or denying disability benefits shall be served by one (1) of the following methods:

(a) The system may place a copy of the document to be served in an envelope, and address the envelope to the member to be served at the address of the member existing in the system files or at the address set forth in written instructions furnished by the member or his legal representative. The system shall affix adequate postage and place the sealed envelope in the United States mail as certified mail return receipt requested. The system shall forthwith enter the fact of mailing in the record and make an entry when the return receipt is received. If the envelope is returned with an endorsement showing failure of delivery, that fact shall be entered in the record. The system shall file the return receipt or returned envelope in the record. Service by certified mail is complete upon delivery of the envelope. The return receipt shall be proof of the time, place, and manner of service.

(b) The system may cause the document, with necessary copies, to be transferred for service to any person authorized by the ***system*** [~~board~~] or by any statute or rule to deliver them, who shall serve the documents, and the return endorsed thereon shall be proof of the time and manner of service.

(c) The methods of service specified by this statute shall be supplemental to and shall be accepted as an alternative to any other method of service specified by other applicable law.

(7) The ***system*** [~~board~~], pursuant to ***regulations*** [~~its policy and procedures~~], may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the ***system*** [~~board~~] in accordance with the ***regulations*** [~~policies and procedures~~] established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the ***system*** [~~board~~] or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 44. KRS 61.670 is amended to read as follows:

(1) As soon as practicable after its organization, the board shall adopt ***the*** [~~such~~] actuarial tables [~~as are~~] necessary for the administration of the system and for the annual determination of assets and liabilities of the system. The board shall cause an actuarial valuation to be made annually. The valuation shall include a description of the actuarial assumptions used, and ***the*** [~~such~~] assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience. [~~For the period July 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one and one-half (1 1/2) percentage points above the assumed rate of salary increase. Thereafter, this spread between investment and salary assumptions shall be reviewed and adjusted annually, based upon the most recent five (5) year experience of the system.~~] At least once in each ten (10) year period, the board shall cause an actuarial investigation to be made of all the experience under the retirement system. Pursuant to ***the*** [~~such~~] investigation the board shall, from time to time, revise the actuarial tables previously adopted by the board and shall thereupon revise the bases of the rates of contributions required under KRS 61.510 to 61.692 and 16.505 to 16.652 and 78.510 to 78.852. All ***the*** [~~such~~] investigations and valuations shall be certified to the board by a fellow of the Society of Actuaries.

(2) A copy of each ten (10) year actuarial investigation and annual valuation shall be forwarded to the Legislative Research Commission. The annual valuation shall be forwarded no later than ten (10) days after receipt by the board.

Section 45. KRS 61.675 is amended to read as follows:

(1) The employer shall prepare ***the*** [~~such~~] records and, from time to time, shall furnish ***the*** [~~such~~] information [~~as~~] the ***system*** [~~board~~] may require in the discharge of its duties. Upon employment of an employee, the employer shall inform him of his duties and obligations in connection with the system as a condition of employment.

(2) The system may at any time conduct an audit of the employer in order to determine if the employer is complying with the provisions of KRS 16.505 to 16.652, 61.610 to 61.705, or 78.510 to 78.852. The system shall have access to and may examine all books, accounts, reports, correspondence files, and records of any employer. Every employer, employee, or agency reporting official of a department or county, as defined in KRS 78.510(3), having records in his possession or under his control, shall permit access to and examination of the records upon the request of the system.

Section 46. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560 (4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for thirty-year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he ***shall*** [~~must~~] obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate ***the*** [~~such~~] prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the ***system*** [~~board~~] of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and, as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in ***the*** [~~such~~] system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in ***the*** [~~such~~] plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in ***the*** [~~such~~] plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, ***shall be*** [~~is hereby~~] exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, ***if*** [~~provided~~] he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up ***the*** [~~such~~] employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of ***the*** [~~such~~] transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by ***the same retirement system*** [~~one (1) of these retirement systems~~], ***shall*** [~~will~~] have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, [~~then~~] an accumulation of all hours worked ***within the same retirement system shall*** [~~will~~] be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System or Teachers' Retirement System, but who is a member of one (1) of ***the*** [~~such~~] systems or is a former member of one (1) or more of ***the*** [~~such~~] systems with valid service credit therein, ***shall*** [~~will~~] become eligible for service retirement benefits attributable to the amount of his actual service credit in each [~~such~~] system in which he has service credit when his combined service credit in all ***the*** [~~such~~] systems, plus any service credit he has in the Judicial Retirement Plan or Legislators' Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system.

Section 47. KRS 61.685 is amended to read as follows:

(1) If [~~Should~~] any change or error in records ***results*** [~~result~~] in any present or former member or beneficiary receiving from the system more or less than he would have been entitled to receive had the records been correct, [~~then~~] on discovery of any [~~such~~] error, the ***system*** [~~board~~] shall correct the same.

(2) Neither the board nor any of its individual members shall be liable to any person for any claim arising from the failure of any participating employer, or any employer who should have been participating in any retirement system operated by the board, to make retirement contributions on behalf of the person.

Section 48. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652 and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652 and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process [~~whatsoever~~], ***and an*** [~~nor shall any~~] assignment thereof ***shall not*** be enforceable in any court.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property pursuant to KRS 403.190(1) in an action for dissolution of marriage if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2).

(3) Qualified domestic relations orders issued by a court shall be honored by the retirement systems if the orders are in compliance with the ***regulation*** [~~policy~~] adopted by the board pursuant to KRS 61.645(9)(e).

Section 49. KRS 61.691 is amended to read as follows:

(1) The board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky Employees Retirement System as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period.

(2) Effective August 1, 1990, each recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 whose retirement date preceded January 1, 1982, shall have his benefits increased two dollars and fifty cents ($2.50) for each year the retirement allowance has been ***issued*** [~~drawn~~]. This increase in retirement allowance shall be calculated and applied to the recipient's retirement allowance prior to any other increase provided for in this section.

(3) Effective August 1, 1990, and July 1, 1991, a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by two and nine-tenths percent (2.9%).

(4) A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.

SECTION 50. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Any person, including but not limited to members and agency reporting officials, who makes a statement, report, or representation, shall, at the request of the system, make the statement, report, or representation under oath with an acknowledgement that a false statement, report, or representation shall be punishable by law.

(2) Notwithstanding subsection (1) of this section, the system may, in its discretion, rely in good faith on any statement, report, or representation without further inquiry.

Section 51. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, [~~or~~] sheriff and his employees, [~~or~~] county clerk and his employees, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not[~~, except in the case of volunteer firefighters serving a fire district created pursuant to KRS 75.010,~~] include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the ***elected officials*** [~~electorate~~] of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. [~~If firefighters employed by a district created pursuant to KRS 75.010 are paid less than five thousand dollars ($5,000) per year for firefighting services, creditable compensation shall mean an assumed salary of at least five thousand dollars ($5,000) per year, or a higher figure set annually by the district board of trustees.~~] Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) ***month*** [~~months'~~] period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the ***system*** [~~board~~] by the employer and the following equivalents shall be used to convert ***the*** [~~said~~] rate to an annual rate: nineteen hundred fifty (1950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency ***who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852*** [~~to file reports with the County Employees Retirement System~~];

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months [~~in any event~~] and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than ***a calendar*** [~~an annual~~] or fiscal year average of one hundred (100) hours of work per month***, determined by using the number of months actually worked within a calendar or fiscal year,*** in the performance of duty, except in case of ***non-certified employees of*** [~~school bus drivers, teacher aides, cafeteria employees, secretaries, and custodial personnel for~~] school boards, [~~in which event~~] the school term average shall be eighty (80) hours of work per month***, determined by using the number of months actually worked within the school term,*** in the performance of duty[~~, and except in the case of volunteer firefighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees~~];

(22) "Alternate participation plan" means a [~~new~~] method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has ***on file at the retirement office*** [~~filed~~] the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, [~~or~~] persons, [~~or~~] estate, [~~or~~] trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee; [~~and~~]

(26) "Recipient" means the retired member, [~~or~~] the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance***;***

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30; and

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort.

Section 52. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 79.080, 90.310 to 90.420, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.852 to 95.884, and KRS Chapter 96, notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the County Employees Retirement System pursuant to KRS 78.520 to 78.852.

(2) (a) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employee contributions made to the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884, or KRS Chapter 96 shall be paid to the County Employees Retirement System and credited to the individual member's account in the system for any employee electing to terminate coverage under the provisions of this section.[~~, or for~~] Any person who is an active member of the County Employees Retirement System on July 15, 1990, who [~~previously~~] withdrew from service ***prior to August 1, 1988,*** under any of the plans enumerated in this section and who was not granted a refund of his employee contributions***, shall be refunded employee contributions with any interest specified in the applicable statute or plan, unless the employee has a vested account in***

the former plan, in which case he may elect to leave his contributions in the fund in order to receive a pension from the plan when he becomes eligible.

(b) Proper credit for these employee contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3). The cost of participation for employees who withdrew from service and who were not granted a refund for employee contributions shall be based only upon the time period for which the contributions were made. The cost shall be computed by the County Employees Retirement ***System*** [~~System's consulting actuary~~] in a manner consistent with the calculation of other ***delayed contribution payments*** [~~alternate participation plan costs~~], and shall be paid by the ***employee*** [~~pension system which did not grant the refund~~].

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employee contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620; 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884, or KRS Chapter 96 by each employee electing to terminate coverage under the provisions of this section shall be refunded to the employee with interest as specified in the applicable statute or plan, unless the employee has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible.

Section 53. KRS 78.535 is amended to read as follows:

(1) ***If*** [~~In the event~~] a participating county fails to fully comply with the provisions of KRS 78.510 to 78.852, the board shall notify ***the*** [~~said~~] county in writing of its failure to comply and shall inform ***the*** [~~said~~] county that ***the*** [~~such~~] failure shall be deemed to be cause for termination of the participation of ***the*** [~~said~~] county in the system.

(2) In not less than ninety (90) days after the issuance of the notice in accordance with subsection (1) of this section, the board may terminate the participation of the county in the system unless the county has fully complied or has made satisfactory arrangements to comply. The board shall determine the effective date of ***the*** [~~such~~] termination of participation.

(3) The county may appeal the decision of the board to the Franklin Circuit Court.

(4) Employees of the county who are members of the system on the effective date of termination of participation shall have the privilege of continuing in membership in the system until their county employment is terminated. ***The*** [~~Such~~] employees shall continue to make contributions to the system in accordance with the provisions of KRS 78.610 and the county shall contribute employer contributions for ***the*** [~~such~~] employees in accordance with KRS 61.565.

(5) Notwithstanding the provisions of subsection (4) of this section, the aggregate amount of the employer contributions during a fiscal year of a county whose participation has been terminated by the board shall be not less than the amount the system is required to pay in retirement allowances during ***the*** [~~such~~] fiscal year to former employees of ***the*** [~~such~~] county and the beneficiaries of ***the*** [~~said~~] former employees. In determining the amount of retirement allowances, the ***system*** [~~board~~] shall allow credit for the member contributions paid by ***the*** [~~such~~] former employees.

(6) In lieu of termination of the participation of a county which fails to fully comply with the provisions of KRS 78.510 to 78.852, the board may file an action in the Franklin Circuit Court to collect money owed and to attach so much of the general fund of the delinquent county as is necessary to achieve full compliance with the provisions of KRS 78.625.

Section 54. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date ***the*** [~~such~~] county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline ***prior*** to ***their participation*** [~~participate~~] in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline ***prior*** to ***their participation*** [~~participate~~] in the system;

(2) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following ***the*** [~~such~~] county's participation, or in the case of persons on authorized leave, within thirty (30) days of

their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky Retirement Systems.

Section 55. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, armed forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, ***purchase of service credit, interest and installment payments,*** as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702;

(37) Death benefit, as provided by KRS 61.705; [~~and~~]

(38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569***; and***

(39) Statement to be made under oath, good faith reliance, as provided for in Section 50 of this Act.

Section 56. KRS 78.610 is amended to read as follows:

(1) Each employee shall, commencing on August 1, 1990, contribute, for each pay period[~~,~~] for which he receives compensation, five percent (5%) of his creditable compensation unless he did not elect membership pursuant to KRS 61.545(3). [~~Any other provisions of KRS 78.510 to 78.852 notwithstanding, any reemployed retiree, as described in KRS 61.637, shall contribute five percent (5%) of his creditable compensation, or the amount required by KRS 61.592(3) if applicable, if he anticipates that he will receive more than the maximum permissible earnings, as provided by the Federal Social Security Act, in compensation as a result of reemployment during the calendar year.~~]

(2) The ***agency reporting official*** [~~treasurer, attorney, clerk, jailer, and sheriff~~] of a participating county shall cause to be deducted from the "creditable compensation" of each employee for each and every payroll period subsequent to the date the county participated in the system[~~, including the assumed creditable compensation of firefighters employed by a district created pursuant to KRS 75.010,~~] the contribution payable by ***the*** [~~such~~] member as provided in KRS 78.510 to 78.852. The ***agency reporting official*** [~~attorney, clerk, jailer, and sheriff~~] shall promptly pay ***the*** [~~such~~] deducted employee contributions to the ***system*** [~~treasurer for forwarding to the board~~] in accordance with KRS 78.625.

(3) The deductions provided for ***in subsection (2) of this section*** [~~herein~~] shall be made notwithstanding that the minimum compensation provided by law for any employee shall be reduced thereby. Every employee shall be deemed to consent and agree to the deductions made as provided ***in subsection (2) of this section*** [~~herein~~]; and payment of salary or compensation less ***the*** [~~such~~] deductions shall be a full and complete discharge of all claims for services rendered by ***the*** [~~such~~] person during the period covered by ***the*** [~~such~~] payment, except as to any benefits provided by KRS 78.510 to 78.852.

(4) Each employer shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employee contributions required by this section for all compensation earned after August 1, 1982, and the contributions [~~so~~] picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(10). These contributions shall not be included as gross income of the employee until the contributions are distributed

or made available to the employee. The picked-up employee contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982, by the employee contribution, and the picked up employee contribution shall be in lieu of an employee contribution. Each employer shall pay these picked-up employee contributions from the same source of funds which is used to pay earnings to the employee. The employee shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employee contributions picked up after August 1, 1982, shall be treated for all purposes of KRS 78.510 to 78.852 in the same manner and to the same extent as employee contributions made prior to August 1, 1982. [~~Employee contributions of volunteer firefighters based upon an assumed salary pursuant to KRS 78.510(13) shall not be picked up by the employer.~~]

Section 57. KRS 78.615 is amended to read as follows:

(1) Employee contributions shall be deducted each payroll period from the creditable compensation of each employee of an agency participating in the system while he is classified as regular full-time as defined in KRS 78.510 unless the person did not elect to become a member as provided by KRS 61.545(3) or by subsection (2) of KRS 78.540. After August 1, 1982, [~~except in the case of volunteer firefighters whose creditable compensation is based upon an assumed salary,~~] employee contributions shall be picked up by the employer pursuant to KRS 78.610(4). Service credit shall be allowed for each month contributions are deducted or picked up during a fiscal or calendar year, if the employee receives creditable compensation for an average of one hundred (100) hours or more of work per month, except in the case of ***non-certified employees of*** [~~school bus drivers, teacher aides, secretaries, custodial personnel, and cafeteria employees for~~] school boards, [~~in which event~~] the school term average shall be eighty (80) hours of work per month[~~, or except in the case of volunteer firefighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees~~]. If the average number of hours of work is less than one hundred (100) hours per month, or in the case of ***non-certified employees*** [~~school bus drivers, teacher aides, secretaries, custodial personnel, and cafeteria employees~~] of school ***boards*** [~~districts~~] eighty (80) hours per month, [~~or in the case of volunteer firefighters less than the work requirement set by the district board of trustees,~~] the employee shall be allowed credit only for those months he receives creditable compensation for one hundred (100) hours of work, or in the case of ***non-certified employees*** [~~school bus drivers, teacher aides, secretaries, custodial personnel, and cafeteria employees~~] of school ***boards*** [~~districts~~] eighty (80) hours of work[~~, or in the case of volunteer firefighters those months in which he satisfies the work requirements set by the district board of trustees~~].

(2) Employee contributions shall not be deducted from the creditable compensation of any employee or picked up by the employer while he is seasonal, emergency, temporary, or part-time. No service credit shall be earned.

(3) Contributions shall not be made or picked up by the employer and no service credit shall be earned by a member while on leave except:

(a) A member on military leave shall be entitled to service credit in accordance with KRS 61.555; and

(b) A member on educational leave who meets the criteria established by the state Department of Personnel for approved educational leave, who is receiving seventy-five percent (75%) or more of full salary, shall receive service credit and shall pay member contributions in accordance with KRS 78.610 and his employer shall pay employer contributions or the contributions shall be picked up in accordance with KRS 61.565. If a tuition agreement is broken by the member, the member and employer contributions paid or picked up during the period of educational leave shall be refunded.

(4) The retirement office, upon detection, shall refund ***any*** erroneous employer and employee contributions made to the retirement system ***and any interest credited in accordance with KRS 78.640.***

Section 58. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the ***system*** [~~board~~] on forms prescribed by the board. The certification shall provide for equal treatment of all employees.

(3) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick leave balance to the ***system*** [~~board of trustees of the Kentucky~~

~~retirement systems~~]. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit if the member pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(4) The ***system*** [~~board~~] shall compute the cost [~~to the retirement system~~] of the sick leave credit of each retiring employee and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3) and (4) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick leave program that is universally administered to its employees shall, at the time of ***termination*** [~~retirement~~], compensate the employee for [~~as many~~] unused sick-leave days [~~as~~] the employee has accumulated ***which*** [~~and~~] it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's ***current rate of pay*** [~~last annual salary~~]. Payment for unused sick-leave days shall be incorporated into the annual salary of the final year of service, if the employee and employer make the regular employee and employer contributions, respectively, on the sick leave payment. The number of sick leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

Section 59. KRS 78.625 is amended to read as follows:

(1) The ***agency reporting official*** [~~treasurer~~] of the county shall, by the tenth day of each month, forward to the ***system*** [~~board~~] an amount equal to the aggregate amount of the employees' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The ***agency reporting official*** [~~treasurer~~] or some other person designated by the county shall forward a record of all [~~such~~] contributions to the ***system*** [~~board~~] on ***the*** [~~such~~] forms [~~as~~] the board ***prescribes*** [~~may prescribe~~].

(3) Delinquent contributions, with interest at the rate of eight percent (8%) per year compounded annually, may be recovered by action in the Franklin Circuit Court against the county liable therefor or may, at the request of the board, be deducted from any other moneys payable to ***the*** [~~such~~] county by any department or agency of the state.

(4) ***If*** [~~In the event~~] an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

Section 60. KRS 78.650 is amended to read as follows:

The retirement allowance account shall be the account in which shall be accumulated all employer contributions ***and***[~~,~~] amounts transferred from the members' contribution account, and to which all income from the invested assets of the system shall be credited. From this account shall be paid the expenses of the ***system and the*** board in ***administration of*** [~~administering~~] the system, retirement allowances, and any other benefits payable after a member's retirement and from this account shall be transferred to the members' contribution account the interest credited annually to each member's individual account as provided by KRS 78.510 to 78.852.

Section 61. KRS 78.780 is amended to read as follows:

(1) The government and control of the system is vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 78.510 to 78.852 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 78.510 to 78.852, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.705, except that members of the board, when acting for the County Employees Retirement System, shall be paid a per diem of sixty dollars ($60), plus actual expenses.

(2) Expenses incurred by or on behalf of the ***system and the*** board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. Nothing herein shall be construed as limiting appropriations which may be made to the system from other sources.

The Committee Amendment No. 1 to **SB 114** is as follows:

Amend printed copy of **SB 114/GA** on page 51, line 2, by inserting after "by" the following:

"***a federally or state funded private nonprofit corporation which performed public services through contract with a state agency, or by***"; and

on page 51, line 5, by inserting after the second use of the word "the" the following:

"***nonprofit corporation or the***".

The Committee Amendment No. 2 to **SB 114** is as follows:

Amend printed copy of **SB 114/GA** on page 45, line 22, by bracketing and striking through "1990" and by substituting therefor "***1992***"; and

on page 45, line 24, by bracketing and striking through "1991" and by substituting therefor "***1993***".

The Committee Amendment No. 3 to **SB 114** is as follows:

Amend printed copy of **SB 114/GA** on page 33, line 3, by inserting after the word "on" the words "***or after***"; and

On page 33, line 5, by inserting after the word "system;" the following: "***and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;***"; and

On page 78, line 23, by inserting after the word "education" the following: "***or the Higher Education Assistance Authority,***"; and

On page 78, line 26, by inserting after the word "education" the following: "***or the Higher Education Assistance Authority***".

SB 192, AN ACT relating to the training of local government officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

There shall be created a Local Government Training Advisory Council in Kentucky, to be composed of the presidents or their designees of the Kentucky Association of Counties, the County Judge/Executives Association, the Kentucky League of Cities, the chairperson of the Kentucky Urban Affairs Council, and the commissioner of the Department of Local Government.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Local Government Training Advisory Council shall:

(a) Develop and update on a biennial basis a local government training plan that:

1. Quantifies the training needs of local governments;

2. Evaluates the abilities of existing training programs to meet the needs;

3. Identifies areas of unmet need that justify expanding existing programs or the creation of new programs; and

4. Formulates a strategy, giving consideration to the use of state-of-the-art communication techniques to enhance training efforts, that meets the needs of local governments;

(b) Submit a copy of the local government training plan to the Legislative Research Commission by November 1 of odd-numbered years;

(c) Ensure the proper coordination of training programs for city and county governments; and

(d) Elect a chairperson annually from its membership.

(2) The council shall adopt the plan provided for in subsection (1)(a) of this section by majority vote, at which time it shall become the policy document used by the Department of Local Government to determine priorities for the expenditure of training funds.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The Local Government Training Advisory Council shall use the expertise of existing training providers in developing new or expanded programs. This includes, but is not limited to:

(a) All institutions of higher education and affiliate organizations that provide training and technical assistance to local governments;

(b) State agencies that provide training related to statutory or regulatory oversight responsibilities;

(c) Area development districts;

(d) Public official professional associations;

(e) Private providers associated with established certification programs;

(f) Any other provider suitable for developing effective training programs.

(2) The council shall be attached to the Department of Local Government for administrative purposes.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The members of the council shall not be compensated for their duties on the council.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The council shall meet at least four (4) times each year at the times it determines by resolution. Special meetings may be called by the chairperson. Upon the request of three (3) members of the council, the chairperson shall call a special meeting.

(2) Notice of each meeting shall be given by the chairperson at least ten (10) days prior to the time of the meeting, unless all members of the council waive notice.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A majority of the voting members of the council constitutes a quorum for the transaction of business, but no business shall be transacted and no proposition carried unless a majority of the members votes for it.

SB 220, AN ACT relating to legislative regulation of rents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 67.712, 67.083, 82.082, and 83.420, to insure uniformity and statewide application, only the General Assembly shall enact legislation which would affect or control rents on private property. This section is not intended to impair the right of any city, county, or urban-county to manage and control any property in which it has an interest through a housing authority or similar agency which provides housing assistance, nor is this section intended to include those programs operated by any city, county, or urban-county pursuant to federal grant programs.

SB 251, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 212.020 is amended to read as follows:

(1) The secretary of the Cabinet for Human Resources shall appoint, ***from a list of nominees,*** three (3) qualified, licensed, and practicing physicians; [~~and~~] one (1) qualified, licensed, and practicing dentist; [~~and~~] one (1) qualified, ***licensed, and*** practicing registered nurse; ***one (1) licensed engineer engaged in the practice of civil or sanitary engineering; one (1) qualified, licensed, and practicing optometrist;*** [~~and~~] one (1) qualified licensed and practicing veterinarian; and one (1) lay person knowledgeable in consumer affairs residing in each county who, together with the county judge/executive and one (1) person appointed by the fiscal court in each county, shall constitute a local board of health for the respective counties in which they reside. ***The list of nominees submitted to the secretary shall be accepted from any source and shall be solicited and obtained from the county judge/executive, fiscal court, and county health department staff; and nominations of physicians, dentists, nurses, engineers, optometrists, and veterinarians shall be solicited and obtained from the county's medical society, dental society, nursing association, engineering association, optometric association, and veterinarian association respectively. If*** [~~In the event~~] a county does not have three (3) qualified, licensed, and practicing physicians or one (1) qualified, licensed, and practicing dentist or one (1) qualified, [~~and~~] licensed, ***and*** practicing registered nurse ***or one (1) qualified, licensed, and practicing civil or sanitary engineer or one (1) qualified, licensed, and practicing optometrist*** or one (1) qualified, licensed, and practicing veterinarian [~~or one (1) lay person knowledgeable in consumer affairs~~] residing therein, the secretary of the Cabinet for Human Resources may appoint a resident lay person knowledgeable in consumer affairs in lieu thereof for each such vacancy. The members of the local board shall hold office for a term of two (2) years ***with physicians, dentists, and fiscal court appointees appointed in even numbered years and nurses, engineers, optometrists, veterinarians, and lay appointees appointed in odd numbered years, for terms*** from the date of their appointment, ***beginning on or after January 1, 1993,*** and until their successors are appointed, ***except the terms of the first appointment of all physician and fiscal court appointee terms beginning on January 1, 1993, shall expire on December 31, 1993; dentist terms beginning on August 1, 1992, shall expire on December 31, 1993; nurse, engineer, and optometrist appointments beginning on August 1, 1992, shall expire on December 31, 1994; and veterinarian and lay appointments beginning on October 1, 1992, shall expire on December 31, 1994.*** The members of the board shall receive no compensation for their services.

(2) The secretary ***shall remove any member, other than the county judge/executive or fiscal court appointee, who fails to attend three (3) consecutive scheduled meetings, and*** may remove any board member, ***except the county judge/executive or fiscal court appointee,*** [~~he appoints~~] as provided by KRS 65.007. The fiscal court may remove its appointee in like fashion.

Section 2. KRS 212.230 is amended to read as follows:

(1) County, city-county, and district boards of health shall:

(a) Appoint a health officer and fix his salary subject to the approval of the Cabinet for Human Resources;

(b) Hold a regular meeting at least once every three (3) months, ***except that county or city-county boards whose counties are members of a district health department shall hold a regular meeting at least once every twelve (12) months,*** and [~~such~~] other special or regular meetings as [~~may be~~] desired and keep full minutes of all the proceedings in a book provided for this purpose;

(c) Adopt, except as otherwise provided by law, ***administrative*** [~~such rules and~~] regulations not in conflict with the ***administrative*** [~~rules and~~] regulations of the Cabinet for Human Resources[~~, as may be~~] necessary to protect the health of the people or to effectuate the purposes of this chapter or any other law relating to public health;

(d) Act in a general advisory capacity to the health officer on all matters relating to the local department of health;

(e) Hear and decide appeals from rulings, decisions, and actions of the local health department or health officer, ***if*** [~~where~~] the aggrieved party makes written request therefor to the board within thirty (30) days after the ruling, decision, or action complained of;

(f) Perform all other functions necessary to carry out the provisions of law and the [~~rules and~~] regulations adopted pursuant thereto, relating to local boards of health;

(2) Except as otherwise provided in subsection (1), all powers and authority of the local board of health under existing statutes are transferred to the county department of health.

Section 3. KRS 212.855 is amended to read as follows:

(1) Except for district health departments which serve a county containing a city of the first class, [~~or~~] an urban-county government***, or which are part of an interstate metropolitan statistical area where the Kentucky population of the metropolitan statistical area exceeded two hundred fifty thousand (250,000) people on July 1, 1989,*** a district board of health shall consist of the following members:

(a) The county judge/executive or his designee from each county in the district as an ex officio voting member; and

(b) One (1) additional resident member per county per ***fifteen thousand (***15,000***)*** population or fraction thereof, which shall include the mayor of each city of the second class as an ex officio voting member***, except that the total number of members from any county in a district shall not exceed seven (7) members***.

(2) All members except for the county judges/executive and the mayors of second class cities shall be appointed by the ***county or city-county boards of health from the membership of each county or city-county board of health*** [~~secretary of the cabinet for human resources from lists submitted to him upon his request by the fiscal courts of each county in the district. Said list shall be submitted to the secretary within seventy-five (75) days of receipt of his request. In the event a fiscal court fails to respond within the prescribed seventy-five (75) day period, the county judge/executive of said county shall be authorized to compile and submit, within ten (10) days, his county's nominations to the secretary. In the event the county judge/executive does not respond within the prescribed time, then the secretary shall be authorized to compile, or have compiled, the nominations for such county~~].

(a) ***The secretary of the Cabinet for Human Resources shall notify the chairman of each county or city-county board of health in the district of the name of each member from that county whose term is expiring.*** [~~The list of nominations submitted to the secretary pursuant to this subsection shall include two (2) nominations from each of the following:~~

~~1. The fiscal court of each county;~~

~~2. The county board of health of each county;~~

~~3. The county medical society;~~

~~4. The county dental society;~~

~~5. The district nursing association;~~

~~6. Veterinarians from the county, when available.~~]

(b) ***Upon receipt of the notification, under subsection (a) of this section, each county or city-county board of health shall appoint one (1) of its members to fill each vacant position from that county.*** At least twenty-five percent (25%) or the nearest whole number to twenty-five percent (25%) of the appointed members of the ***district*** board shall be doctors of medicine or osteopathy ***qualified,*** licensed***, and practicing*** in the Commonwealth, and there shall be at least one (1) ***qualified,*** licensed***, and practicing*** registered nurse, one (1) ***qualified, licensed, and practicing*** dentist***, one (1) qualified licensed engineer engaged in the practice of civil or sanitary engineering, one (1) qualified, licensed, and practicing optometrist,*** and one (1) ***qualified, licensed, and practicing*** veterinarian, when available among the membership of the board. The remaining members of the district board shall be concerned community leaders residing within the county from which they are to be representatives.

(c) The chairman of the county or city-county board of health shall inform the secretary with forty-five (45) days of receipt of this notification of the names of the county or city-county board of health members appointed to serve on the district board. Appointed members of district boards of health shall not begin to serve on a district board of health until the time the secretary has certified their eligibility to serve on the board.

(3) ***If*** [~~In the event~~] a vacancy exists upon the district board, ***the*** [~~said~~] vacancy shall be filled in a manner consistent with subsection (2) of this section, with the ***appointed member*** [~~nominee~~] to fill the vacant seat coming from the county in which the vacancy occurs and the ***appointed member*** [~~nominee~~] resides. ***If the term of a member on the county board of health expires or the member cannot complete the term on the***

county board, the seat on the district board of health shall be declared vacant and the county or city-county board of health shall appoint another of its members to fill any unexpired portion of the term on the district board.

(4) The appointed members of the district board of health shall hold office for a term of two (2) years ending on ***December 31*** [~~June 30~~] or until their successors are appointed.[~~; provided, however, that~~] The terms of the first appointments shall be staggered ***so*** [~~in such a manner~~] that ***members whose terms expire on June 30, 1992, shall be replaced with appointed members whose terms expire on December 31, 1994. Members whose terms expire on June 30, 1993, shall be replaced with appointed members whose terms expire on December 31, 1995*** [~~not less than one-half (1/2) the members shall be appointed for a term of one (1) year or until their successors are appointed and qualify. No appointed member of a district board of health shall serve more than two (2) consecutive terms of office~~].

(5) The secretary shall remove any appointed member who fails to attend three (3) consecutive scheduled meetings.

SJR 37, A JOINT RESOLUTION to erect a monument to Kentucky peace officers killed in the line of duty.

WHEREAS, 9,910 Kentuckians are employed as peace officers; and

WHEREAS, untold numbers of Kentucky peace officers have been killed in the line of duty; and

WHEREAS, there is no Kentucky monument or memorial commemorating the unselfish service and supreme sacrifice of those Kentucky peace officers killed in the line of duty; and

WHEREAS, the Kentucky State Lodge of the Fraternal Order of Police consisting of a representative cross section of Kentucky peace officers desires to see a fitting monument or memorial to those peace officers killed in the line of duty; and

WHEREAS, the job of protecting and serving the public is often a thankless task requiring the risking of life and limb;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That we hereby authorize the Kentucky State Lodge of the Fraternal Order of Police to design and raise the necessary funds for a permanent monument or memorial to Kentucky law enforcement officers killed in the line of duty, which shall be erected at a suitable location on the grounds of the Old State Capitol.

Section 2. That the Clerk of the Senate is directed to forward a copy of this resolution to the Kentucky State Lodge of the Fraternal Order of Police.

Calendar

HB 725, HCR 153, HB 444, HB 533, HB 660, HB 737, HB 758, HB 778, HB 816, HB 820, HB 858, HB 926, HCR 158, SB 219, HB 729, HB 768, HB 839, SB 112, SB 144, SB 189, SB 190, SB 191, HB 581, HB 822, HB 861, HB 58, HB 201, HB 658, HB 708, HB 731, HB 905, HJR 130, HJR 147, HJR 148, SB 70, HB 193, HB 447 and **HB 460** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 191**, by Representative Geveden:

Amend printed copy of **HB 191/HCS** on page 8, line 19, after "*(2)*" and before "***Designation***" insert the following: "***The authority shall not designate a tourism zone in a county or counties where an enterprize zone has been designated pursuant to KRS 154.650 to 154.705. The authority shall remove the designation of a tourism zone from a county or counties, if an enterprize zone is designated in the same county or counties.***"

(3)"; and

On page 8, line 23, delete "*(3)*" and insert in lieu thereof subsection "*(4)*"; and

On page 9, line 12, delete subsection "*(4)*" and insert in lieu thereof subsection "*(5)*"; and

On page 9, line 19, delete subsection "*(5)*" and insert in lieu thereof subsection "*(6)*"; and

On page 9, line 24, delete subsection "*(6)*" and insert in lieu thereof subsection "*(7)*".

Report of Committees (Continued)

The Committee on Rules reported that **HB 260, HB 266, HB 337, HB 522, HB 544, HB 596, HB 625, HB 650, HB 679, HB 701, HB 732, HB 750, HB 808, HB 871, HB 882, SB 47, SB 172, HB 193, HB 444, HB 447, HB 460, HB 581, HB 725, HB 737, HB 758, HB 778, HB 861, HB 905, HB 926, HJR 130, HJR 147, HJR 148, HCR 153, HCR 158, SB 189, SB 190** and **SB 219** have been posted for passage in the Orders of the Day for March 16, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 317, HB 558, HB 848, HB 660**

Orders of the Day

HB 556, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 556**. Agreed.

Representative Palumbo moved that **HB 556**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 13, 1992 roll call on **HB 556** - Appendix.)

HB 556, by way of Committee Substitute, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 556**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 679**, by Representative Sanders:

Amend printed copy of **HB 679** on page 3, line 2, after "***erected***" and before the "***;***" insert the following: "***, specific service signs shall not be erected at parkway interchanges unless there is a commitment from eligible businesses to occupy fifty percent (50%) or more of a particular category of specific service sign***".

Floor Amendment No. 2 to **HB 638**, by Representative Freibert:

Amend printed copy of **HB 638** on page 2, line 19, by inserting after "***person***" the words "***who is listed on a credit card application as an authorized user***"; and

On page 2, line 19, by deleting "***a***" the second time it appears on the line and inserting in lieu thereof "***the***".

Floor Amendment No. 2 to the Committee Substitute to **HB 543**, by Representative Barrows:

Amend printed copy of **HB 543/HCS** on page 6, line 13, by placing a bracket before the word "Sixty" and after the parenthetical figure "(60%)", and by striking through the intervening language, and inserting before this bracketed material the following "***Fifty percent (50%)***";

On line 17, by placing a bracket before the word "Thirty" and after the parenthetical figure "(30%)", and by striking through the intervening language, and inserting before this bracketed material the following "***Twenty percent (20%)***";and

On line 21, by placing a bracket before the word "Ten" and after the parenthetical figure "(10%)", and by striking through the intervening language, and inserting before this bracketed material the following "***Twenty percent (20%)***".

Floor Amendment No. 1 to **HB 58**, by Representative J. Harper:

Amend printed copy of **HB 58** on page 3, line 13, after "Board;" by deleting "***or***"; and

On line 14, after "***Board***" by adding "***; or***" and after line 14, by adding:

"***(d) The U.S. Office of Personnel Management or its successor under the Federal Employee Retirement System pursuant to Title V, Chapter 84 of the U.S. Code.***"

Floor Amendment No. 2 to the Committee Substitute to **HB 191**, by Representative Geveden:

Amend printed copy of **HB 191/HCS** on page 8, line 18, delete "***twenty-five (25)***" and insert in lieu thereof "***fifteen (15)***".

Floor Amendment No. 1 to **HB 812**, by Representative Lear:

Amend printed copy of **HB 812** on page 24, after line 9, insert the following:

"Section 14. (1) The Legislative Research Commission shall identify and evaluate a method to define and estimate surplus labor rate, and shall make a final report that shall include recommendations based on its findings.

(2) To accomplish the mandate of subsection (1) of this section, the staff of the Legislative Research Commission shall consult with the state Department for Employment Services, the U.S. Bureau of Labor Statistics, state and national labor researchers, and state and local officials. Outside professional services may be utilized in addition to staff services provided by the Legislative Research Commission. The use of outside professional services shall meet with the approval of the Legislative Research Commission and be provided for by personal service contract, pursuant to KRS 45A.690 to 45A.725.

(3) The report required in subsection (1) of this section shall be submitted to the Legislative Research Commission no later than October 1, 1993.

(4) Staff services to be utilized in completing the study mandated by subsection (1) of this section are estimated to cost $15,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission."

Orders of the Day (Continued)

HB 682 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 682** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 13, 1992 roll call on **HB 682** - Appendix.)

HB 682 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 682** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 589, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Floor Amendment No. 2 to **HB 589**. Agreed.

Representative Mason moved that **HB 589**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1992 roll call on **HB 589** - Appendix.)

HB 589, as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 589**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 496 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Casebier moved that **HB 496** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 13, 1992 roll call on **HB 496** - Appendix.)

HB 496 was passed and the title agreed to.

Representative Casebier moved that the vote by which **HB 496** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 647, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Brown moved the adoption of the Committee Substitute to **HB 647**. Agreed.

Representative Brown moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 647**. Agreed.

Representative Brown moved that **HB 647**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 13, 1992 roll call on **HB 647** - Appendix.)

HB 647, by way of Committee Substitute as amended, was passed.

Representative Brown moved the adoption of the Floor Title Amendment to the Committee Substitute to **HB 647**. Agreed; and the title was agreed to.

Representative Brown moved that the vote by which **HB 647**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 665**, by Representative LeMaster:

Amend printed copy of **HB 665/HCS** on page 3, line 15, by deleting "8,000.00" and inserting in lieu thereof "11,000.00".

Floor Amendment No. 1 to **HB 460**, by Representative Casebier:

Amend printed copy of **HB 460** on page 12, after line 4, by inserting the following:

"Section 4. KRS 507.030 is amended to read as follows:

(1) A person is guilty of manslaughter in the first degree when:

(a) With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or

(b) With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme emotional disturbance, as defined in subsection (1)(a) of KRS 507.020***; or***

(c) He causes the death of another person while operating a motor vehicle in violation of KRS 189A.010.

(2) Manslaughter in the first degree is a Class B felony."; and

On page 12, line 5, after the word "Section" by deleting "4" and inserting "5".

Orders of the Day (Continued)

HB 387, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Amendment No. 1 to **HB 387**. Agreed.

Representative Richards moved that **HB 387**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1992 roll call on **HB 387** - Appendix.)

HB 387, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 387**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 123, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 123**. Agreed.

Representative Lear moved that **HB 123**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1992 roll call on **HB 123** - Appendix.)

HB 123, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 123**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 191 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 191** be placed back in the Orders of the Day. Agreed.

HB 418, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of the Committee Substitute to **HB 418**. Agreed.

Representative Farrow moved the adoption of Floor Amendment No.1 to the Committee Substitute to **HB 418**. Agreed.

Representative Strong moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 418**.

Representative Farrow inquired whether Floor Amendment No. 2 to the Committee Substitute is germane to **HB 418**.

The Speaker ruled that Floor Amendment No. 2 to the Committee Substitute is not germane to **HB 418**.

Representative Farrow moved that **HB 418**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See March 13, 1992 roll call on **HB 418** - Appendix.)

HB 418, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 418**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **HB 812**, by Representative Lear:

Amend printed copy of **HB 812** by amending the title to read as follows: "AN ACT relating to economic development."

Orders of the Day (Continued)

HB 415 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **HB 415** be passed.

On the roll call the vote was: Yeas 85, Nays 1. (See March 13, 1992 roll call on **HB 415** - Appendix.)

HB 415 was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 415** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 450, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved the adoption of Committee Amendment No. 1 to **HB 450**. Agreed.

Representative Curd moved that **HB 450**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 13, 1992 roll call on **HB 450** - Appendix.)

HB 450, as amended, was passed and the title agreed to.

Representative Curd moved that the vote by which **HB 450**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 543, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 543**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 543**. Agreed.

Representative Stumbo moved that **HB 543**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 13, 1992 roll call on **HB 543** - Appendix.)

HB 543, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 543**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **SB 172**, by Representative Ridley:

Amend printed copy of **SB 172/GA** by changing the title to read "AN ACT relating to the court of justice."

Floor Amendment No. 1 to **SB 172**, by Representative Ridley:

Amend printed copy of **SB 172/GA** on page 5, below line 8, to add the following:

"Section 3. KRS 24A.230 is amended to read as follows:

(1) The small claims division shall have jurisdiction, concurrent with that of the District Court, in all civil actions, other than libel, slander, alienation of affections, malicious prosecution and abuse of process actions, when the amount of money or damages or the value of the personal property claimed does not exceed ***two*** [~~one~~] thousand five hundred dollars ***($2,500)*** [~~$1,500)~~] exclusive of interest and costs.

(2) The division may also be used in civil matters when the plaintiff seeks to disaffirm, avoid, or rescind a contract or agreement for the purchase of goods or services not in excess of ***two*** [~~one~~] thousand five hundred dollars ***($2,500)*** [~~$1,500)~~] exclusive of interest and costs.

(3) The division shall have authority to grant appropriate relief, except no prejudgment actions for attachment, garnishment, replevin or other provisional remedy may be filed in the division.

Section 4. KRS 24A.290 is amended to read as follows:

The defendant may file with the clerk a counterclaim against the plaintiff in an amount not in excess of ***two thousand five*** [~~fifteen~~] hundred dollars ***($2,500)*** [~~$1,500)~~] exclusive of interest and costs, if the counterclaim arose out of the same transaction or occurrence that is the subject matter of the plaintiff's claim, and if the counterclaim does not require for its adjudication the presence of third parties over whom the division cannot acquire jurisdiction. Any counterclaim shall be filed with the clerk, and a copy delivered to the plaintiff at least five (5) days prior to the time of the hearing. If the defendant's counterclaim is in excess of the jurisdictional limits of the division, then the provisions of KRS 24A.310(1) shall apply."

Floor Amendment No. 1 to the Committee Substitute to **HB 817**, by Representative Little:

Amend printed copy of **HB 817/HCS** on page 8, line 16, after "***road***" add "***or pipeline***"; and

On page 8, line 20, after "***road***" add "***or pipeline***"; and

On page 8, line 23, after "***road***" add "***or pipeline***"; and

On page 9, line 2, after "***road***" add "***or pipeline***"; and

On page 9, line 4, after "***road***" add "***or pipeline***"; and

On page 9, line 6, after "***road***" add "***or pipeline***"; and

On page 9, line 9, after "***the road***" add "***or pipeline***" and after "***any road***" add "***or pipeline***"; and

On page 9, line 13, after "***the road***" add "***or pipeline***"; and

On page 9, line 17, after "***road***" add "***or pipeline***".

Floor Amendment No. 1 to the Committee Substitute to **HB 365**, by Representative Arnold:

Amend printed copy of **HB 365/HCS** on page 1, line 2, by bracketing and striking through "(a)"; and

on page 2, line 13, by deleting "***Section 9***" and by substituting therefor "***Section 8***"; and

on page 2, line 16, by placing an opening bracket before "(b)" and on page 3, line 13 by placing a closing bracket after "1990." and by deleting existing brackets therein and striking through all material between the brackets not already stricken through; and

on page 9, by deleting lines 11 through 26; and

on page 10, by deleting lines 1 through 22, and by renumbering subsequent sections accordingly; and

on page 21, line 16, by deleting "***Section 9***" and by substituting therefor "***Section 8***"; and

on page 24, line 14, by deleting "***Section 9***" and by substituting therefor "***Section 8***"; and

on page 25, line 25, by deleting "***Section 9***" and by substituting therefor "***Section 8***"; and on page 26, line 9, by deleting "***Section 9***" and by substituting therefor "***Section 8***"; and

on page 26, line 18, by deleting "***Section 9***" and by substituting therefor "***Section 8***"; and

on page 27, line 19, by deleting "***9***" and by substituting therefor "***8***"; and

on page 27 by adding after line 22 the following:

"Section 13. KRS 15.410 is amended to read as follows:

It is the intention of the General Assembly to assure that the criminal laws of the Commonwealth are enforced fairly, uniformly and effectively throughout the state by strengthening and upgrading local law enforcement; to attract competent, highly qualified young people to the field of law enforcement and to retain qualified and experienced officers for the purpose of providing maximum protection and safety to the citizens of, and the visitors to, this Commonwealth[~~; and to offer a state monetary supplement for local law enforcement officers while upgrading the educational and training standards of such officers~~].

Section 14. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county[~~, or any combination of cities and counties,~~] of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police ***or sheriff's*** department of county or city government who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any [~~elected officer, sheriff, deputy sheriff,~~] constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

Section 15. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer a minimum annual salary of four thousand three hundred fifty dollars ($4,350);

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers employed on or after ***the effective date of this Act*** [~~July 1, 1972,~~] to successfully complete a basic training course of at least four hundred (400) hours' duration within ***two (2) years*** [~~one year~~] of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department has substantially complied with subsections (6) and (7) of this section.

Section 16. KRS 15.470 is amended to read as follows:

Law Enforcement Foundation Program funds made available to local units shall be received, held and expended in accordance with the provisions of KRS 15.410 to 15.510, including the rules and regulations issued by the Justice Cabinet. ***Cities and counties which receive insurance premium surcharge revenues shall spend the revenues only for the purposes of law enforcement, including law enforcement training. Expenditure categories may include but are not limited to salary increments for officers who have completed law enforcement training as specified by the city or county, and payment of temporary law enforcement personnel who substitute for local personnel unavailable for duty while in training. Cities and counties shall identify insurance premium surcharge revenues and expenditures in their budgets and audits to insure proper allocation of these funds***[~~, and the following specific restrictions:~~

~~(1) Funds provided shall be used only as a cash salary supplement to police officers, for payments to the defined benefit pension plan to which the officer belongs to cover employer retirement costs on the cash salary supplement, and for administrative costs as provided in KRS 15.450;~~

~~(2) Funds provided shall be used only to compensate police officers who have complied with KRS 15.440(3), (4), and (5).~~

~~(3) Each police officer shall be entitled to receive the state supplement which his qualifications brought to the local unit;~~

~~(4) Funds provided shall not be used to supplant existing salaries or as a substitute for normal salary increases periodically due to police officers~~].

Section 17. KRS 15.480 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the Justice Cabinet, shall draw warrants as specified hereinafter on the State Treasurer for the amount of the Law Enforcement Foundation Program fund due each participating local unit. Checks shall be issued by the State Treasurer and transmitted to the Justice Cabinet for distribution to the proper officials of participating local units which have complied with the provisions of KRS 15.410 to 15.510 and the rules and regulations of the Justice Cabinet. Beginning July 1, 1972, and on the first day of each month thereafter, the share of each eligible and participating local unit of government shall be distributed from the Law Enforcement Foundation Program fund. ***Each eligible and participating city or county government shall receive, after a percentage deduction for administrative expenses pursuant to KRS 15.450(3), the funds derived from the surcharge levied on premiums paid by residents of the city or county. Funds available from surcharges received from nonparticipating cities or counties shall be distributed to participating cities and counties in the same proportion as the individual receipts of a participating city or county bear to the total receipts of participating cities or counties.***

Section 18. KRS 15.490 is amended to read as follows:

[~~(1)~~] Each participating local unit of government shall submit reports to the department of justice on March 31, June 30, September 30 and December 31 of each year containing information relative to number, rank, education, training and compensation of police officers employed by it and the disposition made of any state or other funds received pursuant to KRS 15.410 to 15.510. Nothing in this section shall prohibit the Justice Cabinet from requiring additional information or reports from participating local units of government[~~;~~

~~(2) Local units of government shall include the additional compensation, if any, paid to each police officer from the Law Enforcement Foundation Program fund as a part of the officer's salary in determining all payroll deductions~~].

Section 19. The following KRS sections are repealed:

15.460 Supplemental payments and pension contributions to local governments from fund.

15.500 Distribution of insufficient funds."

Orders of the Day (Continued)

HB 749, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 749**. Agreed.

Representative LeMaster moved the adoption of Floor Amendment No. 7 to the Committee Substitute to **HB 749**. Agreed.

Representative LeMaster moved the adoption of Floor Amendment No. 10 to the Committee Substitute to **HB 749**. Agreed.

Representative LeMaster moved that **HB 749**, by way of Committee Substitute as amended, be passed.

Representative Turner moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 749**.

Representative LeMaster inquired whether Floor Amendment No. 5 to the Committee Substitute is germane to **HB 749**.

The Speaker ruled that Floor Amendment No. 5 to the Committee Substitute is not germane to **HB 749**.

Representative Johnson moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 749**.

On the roll call the vote was yeas 34—Allen, Altman, Brown, Bryant, Casebier, Donnermeyer, Farley, Ford, Gedling, Gee, J. Harper, Heleringer, Jensen, Johnson, Keith, Kerr, Little, Lyne, Mack, Napier, Noe, Noland, Nunn, Overstreet, Reinhardt, Riner, Sanders, Scorsone, Strong, Toby, Todd, Walker, Williams, Zimmerman. Nays 44—Ark, Barrows, Bentley, Blandford, Bowling, Bronger, Bruce, Burch, Butler, Callahan, Castleman, L. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Deskins, Farrow, Geveden, Hatcher, Hourigan, Jones, Lear, Lewis, Lile, Long, Maggard, Mason, McElroy, Moberly, Northup, Palumbo, Rapier, Ravenscraft, Richardson, Ridley, Riggs, Stokes, Stumbo, Turner, Ward, Wayne, Yates.

Floor Amendment No. 2 to the Committee Substitute to **HB 749** was rejected.

Representative Ford moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 749**. Rejected.

On the roll call on the passage of **HB 749** by way of Committee Substitute as amended the vote was: Yeas 75, Nays 20. (See March 13, 1992 roll call on **HB 749** - Appendix.)

HB 749, by way of Committee Substitute as amended, was passed.

Representative LeMaster moved the adoption of the Floor Title Amendment No. 2 to **HB 749**. Agreed; and the title was agreed to.

Representative LeMaster moved that the vote by which **HB 749**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 540, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved the adoption of the Committee Substitute to **HB 540**. Agreed.

Representative Rapier moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 540**. Agreed.

Representative Rapier moved that **HB 540**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 48, Nays 38. (See March 13, 1992 roll call on **HB 540** - Appendix.)

HB 540, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 540**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the House Committee Substitute to **SB 28**, by Representative Arnold:

Amend printed copy of HCS for **SB 28** on page 1, line 19, by inserting after "*used*" and before the semicolon the following: "***. A valuation of the property shall not be required if the purchase price is ten thousand dollars ($10,000) or less***".

Orders of the Day (Continued)

HB 121, with Committee Amendments and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 121**. Agreed.

Representative Burch moved the adoption of Committee Amendment No. 2 to **HB 121**. Agreed.

Representative Burch moved that **HB 121**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 7. (See March 13, 1992 roll call on **HB 121** - Appendix.)

HB 121, as amended, was passed.

Representative Burch moved the adoption of the Committee Title Amendment to **HB 121**. Agreed; and the title was agreed to.

Representative Burch moved that the vote by which **HB 121**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 25, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Amendment No. 1 to **HJR 25**. Agreed.

Representative Little moved that **HJR 25**, as amended, be adopted.

On the roll call the vote was: Yeas 89, Nays 0. (See March 13, 1992 roll call on **HJR 25** - Appendix.)

HJR 25, as amended, was adopted.

Representative Little moved that the vote by which **HJR 25**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 63, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Committee Amendment No. 1 to **HB 63**. Agreed.

Representative Callahan moved that **HB 63**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 3. (See March 13, 1992 roll call on **HB 63** - Appendix.)

HB 63, as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 63**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 576, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **HB 576**. Agreed.

Representative Lewis moved that **HB 576**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 13, 1992 roll call on **HB 576** - Appendix.)

HB 576, by way of Committee Substitute, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 576**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 648, with Committee Substitute and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 648**. Agreed.

Representative Donnermeyer moved that **HB 648**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 50, Nays 32. (See March 13, 1992 roll call on **HB 648** - Appendix.)

HB 648, by way of Committee Substitute, was passed.

Representative Donnermeyer moved the adoption of the Committee Title Amendment to **HB 648**. Agreed; and the title was agreed to.

Representative Donnermeyer moved that the vote by which **HB 648**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 801 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Coleman moved that **HB 801** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 13, 1992 roll call on **HB 801** - Appendix.)

HB 801 was passed and the title agreed to.

Representative Coleman moved that the vote by which **HB 801** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 791 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 791** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 13, 1992 roll call on **HB 791** - Appendix.)

HB 791 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 791** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 811 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 811** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 13, 1992 roll call on **HB 811** - Appendix.)

HB 811 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 811** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 269, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 269** is as follows:

Amend printed copy of **HB 269/GA** on page 3, line 9, by inserting after the word "***not***" the following: "***exceed a total of eight (8) credit clock hours per year and shall not***"

Representative Yates moved that the House concur in Senate Amendment No. 1 to **HB 269**. Agreed.

Representative Yates moved that **HB 269**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 85, Nays 4. (See March 13, 1992 roll call on **HB 269** - Appendix.)

HB 269, as amended by the Senate, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 269**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 209, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 209** is as follows:

HB 209, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.500 is amended to read as follows:

(1) ***The county attorney shall take the following action to enforce collection of delinquent taxes owed to the state, a county, or a taxing district:***

(a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.

(b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.

(c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.

(d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information. [~~Within fifty (50) days after the issuance of a certificate of tax delinquency to the state, county, and taxing district, the county attorney shall cause a notice of the purchase to be mailed by certified mail, return receipt requested, on the person in whose name the property was assessed, and advise him that the certificate is a lien of record against his land that bears interest at twelve percent (12%) per annum, and if not paid the county attorney will proceed as provided by law to collect same.~~] A copy of the return receipt shall be filed by the county attorney in the office of the county clerk in the manner prescribed by the Revenue Cabinet.

(e) Failure to ***mail*** [~~prepare~~] the ***notices*** [~~notice~~] shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the ***notices*** [~~notice~~] shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage.

(2) The county attorney shall prosecute the remedy or remedies provided in this chapter that are most likely to effect collection of the amount due on the certificate of delinquency. Upon the failure of the county attorney to give the notices provided in this section, or to prosecute the remedies for collection of certificates within twelve (12) months after the right to collect accrued, or to duly complete the performance of any other duties necessary to collect the claims of the state, county, and taxing districts for taxes, the Revenue Cabinet may perform such duties. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, Chapters 131, 134 and 135.

(3) The county attorney who [~~prepares the notice and has it mailed and filed, as provided in subsection (1) of this section, and~~] performs his [~~other~~] duties in respect to the certificate of delinquency, shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and ***the*** [~~such~~] commission shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the commission on the amount collected for each taxing unit. When the cabinet performs the duties of the county attorney without his assistance or cooperation, the fee which would otherwise be paid the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(4) Any action on behalf of the state, county and taxing districts authorized by this section or by KRS 134.470, 134.490 or 134.540 shall be filed on relation of the secretary of revenue, and the petition may be sent to the cabinet, which may require revision thereof in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all such actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who cooperates in prosecuting the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

Representative McElroy moved that the House concur in the Senate Committee Substitute to **HB 209**. Agreed.

Representative McElroy moved that **HB 209**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See March 13, 1992 roll call on **HB 209** - Appendix.)

HB 209, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 209**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 458, with Senate Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 458** is as follows:

Amend printed copy of **HB 458/GA** on page 6, after line 2, by adding:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

A member of the legislator's retirement plan who leaves the General Assembly after completing twelve (12) or more years service in the General Assembly and who has not received any benefits under the legislator's retirement plan may elect to be covered under the state health insurance plan for state employees provided under this chapter if the member pays the premium.

Section 3. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services

Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems ***and includes members of the legislator's retirement plan as provided in Section 2 of this Act*.**

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(9) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(10) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(11) The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Congressional districts, members representing state government from each of the seven Congressional districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

Section 4. KRS 18A.228 is amended to read as follows:

For purposes of KRS 18A.228 to 18A.2286, the term "state employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member of any of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the State Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board-authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems ***and shall include a member of the legislator's retirement plan as provided in Section 2 of this Act***."

The Senate Floor Amendment No. 2 to **HB 458** is as follows:

Amend printed copy of **HB 458/GA** on page 6, line 2, by adding thereafter:

"Section 2. KRS 6.577 is amended to read as follows:

(1) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators Retirement Plan who are under age sixty-five (65) to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same medicare hospital and medical insurance eligibility status.

(2) Each employer participating in the Legislators Retirement Plan shall contribute to ***the*** [~~such~~] plan the amount necessary to provide hospital and medical insurance as provided for under this section. ***The*** [~~Such~~] employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the legislators retirement plan.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan, ***if the*** [~~where such~~] recipient had two hundred forty (240) months or more of service upon retirement. ***If the*** [~~Should such~~] recipient ***had*** [~~have~~] less than two hundred forty (240) months of service, but at least one hundred ***thirty-two (132)*** [~~eighty (180)~~] months of service, ***fifty-five percent (55%) of the premium shall be paid from the insurance fund plus an additional five percent (5%) of the premium for each year of service beginning with the completion of twelve (12) years of service and continuing through the completion of nineteen (19) years of service. The recipient shall agree to pay by payroll deduction or another method the difference between what is paid from the insurance fund and one hundred percent (100%) of the premium. If the recipient had*** [~~seventy-five percent (75%) of such premium shall be paid from such insurance fund, provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have~~] at least one hundred twenty (120) months of service, fifty percent (50%) of ***the*** [~~such~~] premium shall be paid from the insurance fund, ***if the*** [~~provided such~~] recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. ***If the*** [~~Should such~~] recipient ***had*** [~~have~~] less than one hundred twenty (120) months of service but at least forty-eight (48) months of service, twenty-five percent (25%) of ***the*** [~~such~~] premium shall be paid from the insurance fund, ***if the*** [~~provided such~~] recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. "Months of service" as used in this section shall not include service added to determine disability benefits.

(4) The insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of ***the*** [~~such~~] recipient, as the fund pays or paid for the member.

(5) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section."

Representative Butler moved that the House concur in Senate Floor Amendment No. 1 to **HB 458**. Agreed.

Representative Butler moved that the House concur in Senate Floor Amendment No. 2 to **HB 458**. Agreed.

Representative Butler moved that **HB 458**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 65, Nays 0. (See March 13, 1992 roll call on **HB 458** - Appendix.)

HB 458, as amended by the Senate, was passed and the title agreed to.

Representative Butler moved that the vote by which **HB 458**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 315, with Senate Committee Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 315** is as follows:

Amend printed copy of **HB 315/GA** on page 10, line 13, after "retroactive to", by deleting the following:

"July 13, 1990" and inserting in lieu thereof the following:

"September 1, 1989".

Representative Richards moved that the House concur in Senate Committee Amendment No. 1 to **HB 315**. Agreed

Representative Richards moved that **HB 315**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 13, 1992 roll call on **HB 315** - Appendix.)

HB 315, as amended by the Senate, was passed and the title agreed to.

HB 670, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved the adoption of the Committee Substitute to **HB 670**. Agreed.

Representative Sheehan moved that **HB 670**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 77, Nays 0. (See March 13, 1992 roll call on **HB 670** - Appendix.)

HB 670, by way of Committee Substitute, was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 670**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 445, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **HB 445**. Agreed.

Representative Lewis moved that **HB 445**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 13, 1992 roll call on **HB 445** - Appendix.)

HB 445, by way of Committee Substitute, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 445**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HR 203, by Representatives Little and Hancock: A RESOLUTION urging the Transportation Cabinet to study the use of wood products in bridge construction.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **HB 866**, **HB 896**, **SB 80**, **SB 187**, **SB 202**, **HB 291**

Banking and Insurance: **SB 270**

Cities: **HB 702**

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors to Bills: **HB 368**, Representative Casebier; **HB 543**, **HB 647**, **HB 749**, Representative Ackerson.

The following members filed a request to have their names withdrawn as co-sponsor to a Bill: **HB 540**, Representatives Cyrus, Bowling.

Representative Stokes moved that the rules be suspended for the purpose of recording votes.

Representative Stokes moved that she be recorded as voting "nay" on Floor Amendment No. 8 to the Committee Substitute to **HB 468** and "yea" on Floor Amendment No. 7 to the Committee Substitute to **HB 468**. Agreed.

Representative Riggs moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 585**, **HB 495**, **HB 496**, **HB 436**, **HB 379** and "nay" on **HB 540**. Agreed.

Representative Donnermeyer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that he be recorded as voting "yea" on **HB 648**. Agreed.

Representative Walker moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Walker moved that his vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Walker moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Walker moved that he be recorded as voting "yea" on **HB 115**, **HB 256** and **HCR 20**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that her vote be changed from "nay" to "yea" Floor Amendment No. 4 to **HB 241**. Agreed.

Representative Zimmerman moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Zimmerman moved that he be recorded as voting "yea" on **HB 556**. Agreed.

Representative Freibert moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Freibert moved that her vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that she be recorded as voting "nay" on **HB 749**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 496**, **HB 387**, **HB 315** and **HB 209**. Agreed.

Representative Allen moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Allen moved that his vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Lewis moved that **HB 296** be withdrawn. Agreed.

Representative Deskins moved that **HB 939** be withdrawn. Agreed.

Announcements

The following meetings were announced:

Appropriations and Revenue, Room 129, March 13, 1992, upon adjournment.

Health and Welfare, Room 131, March 13, 1992, upon adjournment.

Elections and Constitutional Amendments, 1:00 p.m., March 16, 1992, to discuss **SB 221**.

Tourism Development and Energy, 12 Noon, March 16, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Monday, March 16, 1992.

On the roll call the vote was yeas 76—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Bryant, Butler, Callahan, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Cyrus, Donnermeyer, Farley, Farrow, Freibert, Gee, Gedling, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Hourigan, Johnson, Jones, Keith, Kerr, Lear, Lewis, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stumbo, Toby, Todd, Turner, Walker, Williams, Worthington, Yates, Zimmerman. Nays 1—Lile.

The motion to adjourn was adopted.

MONDAY, MARCH 16, 1992

FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Michael Branch, Northwest Baptist Church, Hopkinsville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Hourigan.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 13, 1992 be dispensed with and the same approved. Agreed.

Floor Amendments

Floor Amendment No. 1 to **HB** 737, by Representative Long:

Amend printed copy of **HB** 737 on page 2, after line 24, add

"Section 2. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) ***(a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.***

1. If the improvements cost more than one thousand dollars ($1,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full. No other financing method shall be used.

2. If the improvements cost one thousand dollars ($1,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost. [The cabinet may amend a lease of private property to provide for an increase in the rental rate when the lessor has made improvements in the leased property at the request of and to meet the needs of the state agency occupying the premises, if the improvements and rent increase have the prior approval of the cabinet secretary. The rent increase shall be, and shall be identified as being, for the purpose of amortizing in full or in part the cost incurred by the owner at the state's request. Any increase for this purpose shall not extend beyond the period required to accomplish the agreed amortization.

(3) No improvement of a permanent nature shall be made at direct state expense in privately leased property. No improvements of a permanent nature may be made at direct state expense in publicly-owned leased property unless the Commonwealth shall have the leasehold interest in the property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.]

(3)[(4)] Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4)[(5)] The Division of Real Properties, within the Department for Facilities Management, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 3. KRS 56.823 is amended to read as follows:

(1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 to the Capital Projects and Bond Oversight Committee as required by this section.

(2) Any lease awarded pursuant to KRS 56.803 for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include:

(a) The name of the agency that will occupy the premises;

(b) The name of the lessor;

(c) The terms of the lease;

(d) The reason for the lease;

(e) A copy of the writing required by KRS 56.803(17);

(f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190. If the cabinet has not complied with any requirement, the cabinet shall explain why;

(g) An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and

(h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

(3) Any lease awarded pursuant to KRS 56.805(2) for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure the department followed to obtain the lease. The report shall also include a copy of the writing required by KRS 56.805(2).

(4) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

(a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;

(b) The terms of lease before and after the emergency; and

(c) The procedure the department followed after the emergency to obtain a lease.

(5) (a) Any built-to-suit lease awarded pursuant to KRS 56.816 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state on what basis the Department for Facilities Management has determined that there is no space to let in the relevant community that will be suitable to meet the space needs of the agency; on what basis a determination has been made

by the secretary of the Finance and Administration Cabinet, with the approval of the Governor, that the construction of a building by the Commonwealth to meet the need is not economically or otherwise feasible; and the economic justification for awarding a built-to-suit lease pursuant to KRS 56.816. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(b) Any built-to-suit lease awarded pursuant to KRS 56.820 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the written finding and executive order required by KRS 56.820(1) and the economic justification for awarding a built-to-suit lease pursuant to KRS 58.820. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(6) Whenever any lease contains a purchase option which is ultimately exercised by the Commonwealth, within thirty (30) days after the purchase, it shall be reported to the Capital Projects and Bond Oversight Committee. The report shall state the total cost of the building to the Commonwealth including rent payments made prior to the purchase.

(7) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to KRS 56.813, that is less than fifty thousand dollars ($50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to KRS 56.813, that is fifty thousand dollars ($50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:

1. The terms of the lease before and after modification;

2. The reason for the modification;

3. The name of the lessor;

4. Any comments received from the public pursuant to KRS 56.813***(4)***[(5)]; and

5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

(b) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

1. The terms of the lease before and after modification;

2. The name of the lessor;

3. Any comments received from the public pursuant to KRS 56.813***(4)***[(5)]; and

4. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why."

Floor Title Amendment to **HB 737**, by Representative Long:

Amend printed copy of **HB 737** on page 1, amend the title to read as follows: "AN ACT relating to the Finance and Administration Cabinet."

Senate Message

Announcing passage of **SB 131**, **SB 177**, **SB 239**, **SB 244**, **SB 301**, **SB 325**, **SB 328**, **SB 372**, **SB 377**, **SB 381**, **SB 383** and **HB 656**. (Time: 2:03 p.m.)

Report on Enrolled Bills

The Committee on Enrollment reported that **HJR 73**, **HB 209**, **HB 269**, **HB 315** and **HB 458** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:04 p.m.))

HJR 73, HB 209, HB 269, HB 315 and **HB 458** were delivered to the Senate and signed by the President. Delivered to the Governor on March 16, 1992 at 4:12 p.m.

Introduction of Bills and Resolutions

HR 204, by Representative Stumbo: A RESOLUTION in honor of Kentucky Youth Art Month.

HR 205, by Representative Crupper: A RESOLUTION honoring Kentucky's farmers.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **SB 35, SB 258**

Banking and Insurance: **SB 291**

Cities: **SB 158**

Counties and Special Districts: **SB 110**

Tourism Development and Energy: **SB 128, SB 176, SB 367**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **SB 51, SB 74, SB 75, SB 78, SB 82, SB 86, SB 109, SB 121, SB 141, SB 193, SB 229, SB 234, SB 237, SB 248, SJR 36, SJR 85, SCR 76, HB 849**

Transportation: **SB 305, SB 275, HB 829, HB 806, HB 790, HB 924**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 99**, **HB 517**, with Committee Substitute attached thereto, **HB 776, HB 888, HCR 163**, with Committee Substitute and Title Amendment attached thereto, and **HJR 164** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 99, AN ACT relating to the Vietnam veterans' bonus and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 40.410 TO 40.560 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 40.470:

(1) Applications for the bonus may be filed with or sent to the adjutant general or his administrator before the ninety-first day following the effective date of this Act.

(2) Applications for the bonus received after the date specified in KRS 40.470(2) and prior to the effective date of this Act shall be deemed to have been timely filed under the provisions of KRS 40.410 to 40.560 and shall be processed forthwith.

(3) The adjutant general or his administrator shall advertise the additional period of application provided for in this Act.

Section 2. KRS 40.560 is amended to read as follows:

(1) There shall be a board of review consisting of nine (9) persons who are residents and qualified voters of the Commonwealth, appointed by the Governor without limitation as to political affiliation, religion, race, sex, or past or present service in the armed forces, except that six (6) members of this board shall be veterans. The name of said board shall be "The Vietnam Veterans' Bonus Board of Review." The Governor shall designate a chairman and a secretary from among the membership.

(2) Three (3) members and no more shall constitute a board of review, and shall by concurrence of two (2) members decide any claim which comes before the board in the manner provided in KRS 40.520. The chairman of the board shall designate three (3) members to consider and decide each claim, having due regard for availability for service so that delay may be avoided.

(3) The chairman and secretary shall devote their full time to the affairs of the board and shall receive compensation at the rate to be fixed in accordance with personnel standards fixed by the commissioner of personnel until the functions of the board are performed and the board is dissolved as hereinafter provided. Other members of the board shall be compensated fifty dollars ($50.00) per diem, but only for actual time served in considering and deciding claims for veterans' bonuses pursuant to designation by the chairman. All members of the board shall be reimbursed for necessary travel to and from their places of residence, and in performance of duties pursuant to assignment, at the rate of eighteen cents (18) per mile.

(4) Each claim coming before the board shall promptly be considered and decided by the three (3) members designated for that purpose. In every case, the board shall either affirm the decision of the administrator, or determine that a veterans' bonus should be paid, and to what persons and in what amounts. No written opinions or recitations of reasons for any decision need be made. A statement of the decision made shall be signed by at least two (2) of the three (3) members designated to decide the claim, and upon concurrence of two (2) members, a decision shall be final and not subject to reconsideration.

(5) When, after ***the ninety-first day following the effective date of this Act*** [~~March 1, 1990~~], the board of review shall have decided all cases coming before it for decision, the chairman shall report such fact to the Governor in writing. The Governor shall thereupon declare that the board of review is dissolved, and shall so notify the members, and the functions and duties of the board shall be deemed to have been fully performed.

Section 3. Any unexpended appropriation made to the Department of Military Affairs, Vietnam Veterans' Bond Trust Fund, pursuant to the provisions of 1990 Kentucky Acts, Chapter 514, part 1, A., 10., for payment of the Vietnam Veterans' bonus or the administration of the bonus, shall be used for payment of such bonuses authorized by this Act and attendant administrative cost, and such funds are hereby appropriated.

Section 4. In the event that the funds appropriated in Section 3 of this Act are insufficient to pay the bonuses authorized by this Act, such payments shall be deemed a necessary governmental expense and paid by the State Treasurer upon approval of the Finance and Administration Cabinet.

HB 517, AN ACT relating to motor fuels.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to ***138.446*** [~~138.500~~], unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arms length transactions; or

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer;

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, V.M. and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xyol, toluol, aromatic petroleum solvents, [~~alcohol,~~] and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel. ***The term "gasoline" shall include all alcohol used as a motor fuel or blended for use as a motor fuel***;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, aviation jet fuel, [~~kerosene unless used wholly or in combination with special fuel as a motor fuel,~~] or liquefied petroleum gas as defined in KRS 234.100. ***The term "special fuels" shall include all kerosene***;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the cabinet;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle.

Section 2. KRS 138.240 is amended to read as follows:

(1) Every gasoline dealer and every special fuels dealer, or the treasurer or other proper officer or agent of every such dealer, shall, by the twenty-fifth day of each month, transmit to the Revenue Cabinet reports on the forms the cabinet may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. This report shall include the following information:

(a) An itemized statement of the number of gallons received that have been produced, refined, manufactured, or compounded by the dealer in this state during the next preceding calendar month; and

(b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month, as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt, and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge, or vessel if shipped by water.

(2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:

(a) Gasoline and special fuels sold to the United States government, including sales or deliveries to others who sell or deliver the gasoline or special fuels to the United States government, for use exclusively in equipment or vehicles owned or leased by the United States government;

(b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car, or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car, or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge, or vessel, and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment, and point of delivery;

(c) Gasoline and special fuels lost through accountable losses;

(d) Gasoline and special fuel exported [~~or sold for export~~] from this state to any other state in transport truck, tank car or cargo lots;

(e) Gasoline or special fuel delivered upon or immediately adjacent to a river or stream, if:

1. The gasoline or special fuel is or will be delivered into the fuel supply tank of a commercial ship or vessel which has a valid certificate of documentation issued by the United States Coast Guard; and

2. All the fuel will be used exclusively in the operation of a commercial ship or vessel.

(f) Special fuel delivered to a railroad company principally engaged in the commercial transportation of property for others as a common carrier or in the conveyance of persons for hire, if the railroad company is the holder of a Kentucky motor fuels tax refund permit and certifies that the fuel is to be used exclusively for the purpose of powering locomotives and unlicensed company vehicles or equipment for nonhighway use. Railroad company as used herein shall not include any company described in KRS 136.120(4)(a) in effect on August 1, 1988; and

(g) Special fuels used in unlicensed vehicles or equipment by licensed special fuels dealers for nonhighway purposes related to the distribution of gasoline or special fuels to others.

(3) All gasoline and special fuel gallons received or distributed by a dealer from marine terminal, refinery or pipeline terminal storage in this state shall be reported at sixty (60) degrees Fahrenheit.

Section 3. KRS 138.290 is amended to read as follows:

(1) If any dealer neglects or refuses to make any return required by KRS 138.240 or to pay the tax at the time provided, a penalty of twenty percent (20%) thereof and interest at the tax interest rate as defined in KRS 131.010(6) from the date when due shall be paid as a part of the tax. If collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060.

(2) If any taxpayer subject to the penalty provided in subsection (1) of this section submits in writing to the cabinet, his reasons for failure to comply with KRS 138.240, and if the cabinet finds the reasons evidence of justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty exacted therein to five percent (5%) of the amount of the tax due and delinquent, provided that the cabinet may reduce or waive the penalty when in the sole discretion of the cabinet the exaction of the penalties provided above would be inequitable or unjust.

(3) Any dealer or transporter who fails to make any report or return required under KRS 138.240 or KRS 138.260 within the time required shall pay a penalty of twenty-five dollars ($25) to be assessed and collected in the manner provided for the assessment and collection of taxes under KRS 138.210 to KRS 138.340 inclusive or in a civil action, at the instance of the cabinet. In addition such delinquent may be compelled to make the required report or return.

(4) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the taxes imposed under KRS 138.210 to 138.446, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any such person. The personal and individual liability shall apply to every person holding corporate office at the time the taxes become or became due. No person will be personally and individually liable pursuant to this section who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed under KRS 138.210 to 138.446 become or became due. Taxes as used in this section include interest accrued thereon at the rate provided by KRS 138.290(1), and all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.410 to 131.445 and 131.990.

The Committee Substitute to **HB 517** is as follows:

HB 517, AN ACT relating to motor fuels.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to ***138.446*** [~~138.500~~], unless the context requires otherwise:

(1) "Accountable loss" means loss or destruction of "received" gasoline or special fuel through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or contaminated and returned to storage. The loss shall be reported within thirty (30) days after discovery of the loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) "Gasoline dealer" or "special fuels dealer" means any person who is:

(a) Regularly engaged in the business of refining, producing, distilling, manufacturing, blending, or compounding gasoline or special fuels in this state;

(b) Regularly importing gasoline or special fuel, upon which no tax has been paid, into this state for distribution in bulk to others;

(c) Distributing gasoline from bulk storage in this state;

(d) Regularly engaged in the business of distributing gasoline or special fuels from bulk storage facilities primarily to others in arms length transactions; [~~or~~]

(e) In the case of gasoline, receiving or accepting delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, the person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer; ***or***

(f) Regularly exporting gasoline or special fuels;

(3) "Cabinet" means the Revenue Cabinet;

(4) (a) "Gasoline" means all liquid fuels, including liquids ordinarily, practically, and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments, and all other products so usable which are produced, blended, or compounded for the purpose of operating motor vehicles, showing a flash point of 110 degrees Fahrenheit or below, using the Eliott Closed Cup Test, or when tested in a manner approved by the United States Bureau of Mines, are prima facie commercially usable in internal combustion engines. The term "gasoline" as used herein shall include casing head, absorption, natural gasoline, and condensates when used without blending as a motor fuel, sold for use in motors direct, or sold to those who blend for their own use, but shall not include: propane, butane, or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel, crude oil or casing head, absorption, natural gasoline and condensates when sold to be blended or compounded with other less volatile liquids in the manufacture of commercial gasoline for motor fuel, industrial naphthas, rubber solvents, Stoddard solvent, mineral spirits, V.M. and P & naphthas, turpentine substitutes, pentane, hexane, heptane, octane, benzene, benzine, xyol, toluol, aromatic petroleum solvents, alcohol, and liquefied gases which would not exist as liquids at a temperature of sixty (60) degrees Fahrenheit and a pressure of 14.7 pounds per square inch absolute, unless the products are used wholly or in combination with gasoline as a motor fuel;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, aviation jet fuel, kerosene unless used wholly or in combination with special fuel as a motor fuel, or liquefied petroleum gas as defined in KRS 234.100;

(5) "Received" or "received gasoline" or "received special fuels" shall have the following meanings:

(a) Gasoline and special fuels produced, manufactured, or compounded at any refinery in this state or acquired by any dealer and delivered into or stored in refinery, marine, or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline and special fuel loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state, unless the contrary is established by the dealer, pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline and special fuel acquired by any dealer in this state, and not delivered into refinery, marine, or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale, or other distribution. Dealers may sell gasoline or special fuel to licensed bonded dealers in this state in transport truckload, carload, or cargo lots, withdrawing it from refinery, marine, pipeline terminal, or bulk storage tanks, without paying the tax. In such instances, the licensed bonded dealer purchasing the gasoline or special fuel shall be deemed to have received such fuel at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon;

(6) "Refinery" means any place where gasoline or special fuel is refined, manufactured, compounded, or otherwise prepared for use;

(7) "Storage" means all gasoline and special fuel produced, refined, distilled, manufactured, blended, or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage, or delivered by pipeline at a pipeline terminal, delivery station, or tank farm for storage;

(8) "Transporter" means any person who transports gasoline or special fuel on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline or special fuel storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline or special fuel for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents ($0.09) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the Revenue Cabinet from information furnished by licensed gasoline dealers or from information available through independent statistical surveys of gasoline prices. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, the information regarding wholesale selling prices for the previous month required by the cabinet;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, 138.660, and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83, the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Motor vehicle" means any vehicle, machine, or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by the motor vehicles;

(12) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair, or reconstruction;

(13) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm;

(14) "Retail filling station" means any place accessible to general public vehicular traffic where gasoline or special fuel is or may be placed into the fuel supply tank of a licensed motor vehicle.

Section 2. KRS 138.240 is amended to read as follows:

(1) Every gasoline dealer and every special fuels dealer, or the treasurer or other proper officer or agent of every such dealer, shall, by the twenty-fifth day of each month, transmit to the Revenue Cabinet reports on the forms the cabinet may prescribe, of the total number of gallons of gasoline and special fuel received in this state during the next preceding calendar month. This report shall include the following information:

(a) An itemized statement of the number of gallons received that have been produced, refined, manufactured, or compounded by the dealer in this state during the next preceding calendar month; and

(b) An itemized statement of the number of gallons received by the dealer in this state from any source during the next preceding calendar month, as shown by shippers' invoices, other than the gasoline and special fuel falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt, the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt, and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge, or vessel if shipped by water.

(2) The reports required by subsection (1) of this section shall also contain an itemized statement of the number of gallons received by the dealer during the preceding calendar month of:

(a) Gasoline and special fuels sold to the United States government, including sales or deliveries to others who sell or deliver the gasoline or special fuels to the United States government, for use exclusively in equipment or vehicles owned or leased by the United States government;

(b) Gasoline and special fuels sold for delivery in this state in transport truck, tank car, or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car, or cargo sales, giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge, or vessel, and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment, and point of delivery;

(c) Gasoline and special fuels lost through accountable losses;

(d) Gasoline and special fuel exported [~~or sold for export~~] from this state to any other state in transport truck, tank car or cargo lots;

(e) Gasoline or special fuel delivered upon or immediately adjacent to a river or stream, if:

1. The gasoline or special fuel is or will be delivered into the fuel supply tank of a commercial ship or vessel which has a valid certificate of documentation issued by the United States Coast Guard; and

2. All the fuel will be used exclusively in the operation of a commercial ship or vessel.

(f) Special fuel delivered to a railroad company principally engaged in the commercial transportation of property for others as a common carrier or in the conveyance of persons for hire, if the railroad company is the holder of a Kentucky motor fuels tax refund permit and certifies that the fuel is to be used exclusively for the purpose of powering locomotives and unlicensed company vehicles or equipment for nonhighway use. Railroad company as used herein shall not include any company described in KRS 136.120(4)(a) in effect on August 1, 1988; and

(g) Special fuels used in unlicensed vehicles or equipment by licensed special fuels dealers for nonhighway purposes related to the distribution of gasoline or special fuels to others.

(3) All gasoline and special fuel gallons received or distributed by a dealer from marine terminal, refinery or pipeline terminal storage in this state shall be reported at sixty (60) degrees Fahrenheit.

Section 3. KRS 138.358 is amended to read as follows:

(1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, ***or who delivers kerosene to a retail filling station for resale as heating fuel,*** shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser ***or retail filling station*** certifying that the fuel will be used ***or sold*** exclusively [~~to heat the personal residence to which it is delivered~~]. No person so certifying shall use ***or sell*** the [~~special~~] fuel for any other purpose. Special fuel delivered into a tank having no dispensing outlet and used exclusively to heat a commercial building shall be subject to refund pursuant to KRS 138.351 to 138.355. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.

(2) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a storage tank for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use the special fuels for any other purpose. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.

(3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(7) or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.

HB 776, AN ACT relating to Kentucky Retirement Systems and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.565 is amended to read as follows:

(1) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, and each employer participating in the County Employees Retirement System as provided for in KRS 78.520 to 78.852 and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.515 to 61.705 shall contribute annually to the respective retirement system an amount equal to the percent as computed under subsection (2) of this section of the creditable compensation of its employees, including the assumed creditable compensation of firefighters employed by a district created pursuant to KRS 75.010, to be known as the "normal contributions," and an additional amount to be known as the "past service contribution" which shall be computed by amortizing the total unfunded past service liability over a period of thirty (30) years using the level-percentage-of-payroll method. This method shall be used beginning with the 1990 actuarial valuation. The initial thirty (30) year amortization period shall begin with the 1990 valuation. Any significant increase in past service liability due to benefit improvements after the 1990 valuation shall be amortized using the level-percentage-of-payroll amortization method over a separate thirty (30) year period commencing in the year of the actuarial valuation in which the benefit improvements are first reflected.

(2) The normal contribution rate shall be determined by the entry age normal cost funding method. The past service liability shall be determined by actuarial method consistent with the methods prescribed for determining the normal contribution rate. Normal contributions and the past service liability contribution shall be determined on actuarial bases adopted by the board.

(3) Normal contribution and the past service contribution rates shall be determined by the board on the basis of the annual actuarial valuation last preceding the July 1 of a new biennium. The board may amend contribution rates as of July 1 of the second year of a biennium, if it is determined on the basis of a subsequent actuarial valuation that amended contribution rates are necessary to satisfy the requirements of subsections (1) and (2) of this section. ***Effective July 1, 1992, and each fiscal year thereafter, assets shall be valued for the purpose of determining contribution rates by adding to or subtracting from the book value of assets, as of the date of the valuation, the average difference derived by subtracting the book value from the market value of those assets over the most recent five (5) years as reflected in the annual reports of the respective retirement systems. The average difference shall be added to book value if it is a positive number and shall be subtracted from book value if it is a negative number.***

(4) The board shall advise each employer prior to the beginning of each biennium, or prior to July 1 of the second year of a biennium, of any change in the employer contribution rate. Based on the employer contribution rate, each employer shall include in the budget sufficient funds to pay the employer contributions as determined by the board under subsections (1) to (3) of this section.

Section 2. Whereas, this Act requires the Kentucky Retirement System's employers contribution rates to be determined based upon the modified market value of the funds' assets beginning July 1, 1992, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

HB 888, AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.440 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after July 1, 1990, the board of education of each school district may levy an equivalent tax rate as defined in subsection (12)(a) of KRS 160.470 which will produce up to fifteen percent (15%) of those revenues guaranteed by the program to support education excellence in Kentucky. The levy for the 1990-91 school year shall be made no later than October 1, 1989, and no later than October 1, 1990, for the 1991-92 school year, and by October 1 of each odd-numbered year thereafter. Effective with the 1990-91 school year, revenue generated by this levy shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment.

(b) The rate levied by a district board of education under the provisions of this subsection shall not be subject to the public hearing provisions of KRS 160.470(10) or to the recall provisions of KRS 160.470(11).

(c) A school district which is at or above the equivalent tax rates permitted under the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall not be required to levy an equivalent tax rate which is lower than the rate levied during the 1989-90 school year.

(2) A district may exceed the maximum provided by subsection (2) of KRS 160.470 provided that, upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of subsection (1) of KRS 160.477, the question whether a rate which would produce revenues in excess of the maximum provided by subsection (2) of KRS 160.470 shall be levied. The rate that may be levied under this section may produce revenue up to no more than thirty percent (30%) of the revenue guaranteed by the program to support education excellence in Kentucky plus the revenue produced by the tax authorized by this section. Revenue produced by this levy shall not be equalized with state funds. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters. ***Notwithstanding any statute to the contrary, no district shall be required to levy an equivalent tax rate less than the rate established by the vote of the people in accordance with this subsection in subsequent years.***

(3) For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (4) of this section and except that a rate which has been approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(4) Notwithstanding the limitations contained in subsection (3) of this section no tax rate shall be set lower than that necessary to provide ***the*** [~~such~~] funds [~~as are~~] required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapter 162.

(5) The chief state school officer shall certify the compensating tax rate to the levying authorities.

HCR 163, A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a special task force on tourism promotion and strategic planning.

WHEREAS, the tourism industry in Kentucky contributed approximately $5,000,000,000 to the state's economy in 1990; and

WHEREAS, Kentucky's tourism industry is the second largest private employer in the state; and

WHEREAS, the tourism industry in Kentucky will continue to flourish if the Commonwealth's tourism assets are promoted properly; and

WHEREAS, the Commonwealth of Kentucky needs to develop a strategic plan for tourism development and promotion;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission shall create a special task force on tourism promotion and strategic planning to consist of fifteen (15) members, to include the following:

(a) The co-chairs of the Tourism Development and Energy Task Force;

(b) The co-chairs of the Subcommittee on Tourism of the Tourism Development and Energy Task Force;

(c) The co-chairs of the Budget Review Subcommittee on Economic Development, Natural Resources, and Tourism;

(d) The secretary of the Tourism Cabinet or his designee;

(e) The commissioner of the Department of Travel Development of the Tourism Cabinet, or his designee;

(f) Two (2) representatives of the Kentucky Tourism Council;

(g) A representative of the Kentucky Marina Association;

(h) A representative of the Kentucky Restaurant Association;

(i) A representative of the Kentucky Hotel and Motel Association;

(j) A representative of the Kentucky Festival Association; and

(k) A representative of the Kentucky Association of Convention and Visitor Bureaus.

Section 2. That the special task force on tourism promotion and strategic planning shall identify and evaluate the Commonwealth's current method of developing and promoting the tourism industry in Kentucky, and the task force shall include recommendations within its final report, based on its findings.

Section 3. That the special task force on tourism promotion and strategic planning shall identify and evaluate the advantages of creating a strategic plan for tourism development and promotion, and the task force shall include recommendations within its final report based on its findings.

Section 4. To accomplish the mandates specified in Sections 2 and 3, the special task force on tourism promotion and strategic planning may utilize outside professional services in addition to staff services provided by the Legislative Research Commission. The use of outside professional services shall meet with the approval of the Legislative Research Commission and be provided for by personal service contract, pursuant to KRS 45A.690 to 45A.725.

Section 5. The report required herein shall be submitted to the Legislative Research Commission no later than July 1, 1993.

Section 6. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee Substitute to **HCR 163** is as follows:

HCR 163, A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a special task force on tourism promotion and strategic planning.

WHEREAS, the tourism industry in Kentucky contributed approximately $5,000,000,000 to the state's economy in 1990; and

WHEREAS, Kentucky's tourism industry is the second largest private employer in the state; and

WHEREAS, the tourism industry in Kentucky will continue to flourish if the Commonwealth's tourism assets are promoted properly; and

WHEREAS, the Commonwealth of Kentucky needs to develop a strategic plan for tourism development and promotion;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Tourism Development and Energy Task Force shall identify and evaluate the Commonwealth's current method of developing and promoting the tourism industry in Kentucky, and the task force shall include recommendations within its final report, based on its findings.

Section 2. That the Tourism Development and Energy Task Force shall identify and evaluate the advantages of creating a strategic plan for tourism development and promotion, and the task force shall include recommendations within its final report based on its findings.

Section 3. To accomplish the mandates specified in Sections 1 and 2, the Tourism Development and Energy Task Force shall consult with, but not be limited to consulting with the following:

(1) Tourism Cabinet;

(2) Kentucky Tourism Council;

(3) Kentucky Marina Association;

(4) Kentucky Restaurant Association;

(5) Kentucky Hotel and Motel Association;

(6) Kentucky Festival Association;

(7) Kentucky Association of Convention and Visitor Bureaus; and

(8) Owners or operators of tourism-related businesses and attractions in Kentucky.

Section 4. The report required herein shall be submitted to the Legislative Research Commission no later than July 1, 1993.

Section 5. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee Title Amendment to **HCR 163** is as follows:

Amend printed copy of **HCR 163** by amending the title to read as follows: "A CONCURRENT RESOLUTION directing the Tourism Development and Energy Task Force to identify and evaluate the Commonwealth's needs relating to tourism promotion and strategic planning."

HJR 164, A JOINT RESOLUTION directing the creation of an executive task force on historic preservation.

WHEREAS, historic preservation programs have placed the Commonwealth in the forefront of our nation's historic preservation efforts; and

WHEREAS, the rehabilitation of buildings, revitalization of commercial areas, and the development of historic tourism destinations provide thousands of jobs for Kentuckians and bring millions of dollars annually into the state's economy; and

WHEREAS, the Commonwealth's historic resources are among the most important in the nation and deserve and require a strong commitment to their maintenance and continued use; and

WHEREAS, in recent years other states have begun to exceed Kentucky's historic preservation efforts particularly in the areas of funding and resource management; and

WHEREAS, the Commonwealth should provide enhanced funding for historic preservation programs and activities; and

WHEREAS, the Commonwealth should develop tools for resolving historic preservation conflicts, forming partnerships, and enhancing economic development initiatives; and

WHEREAS, programs for historic preservation education, public information, and technical assistance should be improved; and

WHEREAS, historic preservation, including emphasis on maintaining and using historic buildings, should become state government policy;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That an executive task force on historic preservation shall be established and the task force shall consist of fifteen (15) members to be appointed in the following manner:

(a) Two (2) legislative members appointed by the President Pro Tem of the Senate;

(b) Two (2) legislative members appointed by the Speaker of the House of Representatives;

(c) Two (2) members appointed by the Governor from the public at-large;

(d) One (1) member appointed by the Governor from the Commonwealth Preservation Advocates;

(e) One (1) member appointed by the Governor from the Kentucky Heritage Council;

(f) One (1) member appointed by the Governor from the Kentucky Organization of Professional Archaeologists;

(g) One (1) member appointed by the Governor from the Kentucky League of Cities;

(h) One (1) member appointed by the Governor from the Kentucky Society of Architects;

(i) One (1) member appointed by the Governor from the African-American Task Force;

(j) One (1) member appointed by the Governor from the Certified Local Government Program;

(k) One (1) member appointed by the Governor from the Kentucky Main Street Program; and

(l) One (1) member appointed by the Governor from a local, nonprofit historic preservation organization.

Section 2. That the executive task force on historic preservation shall identify and evaluate the Commonwealth's historic preservation efforts and needs, and the task force shall include recommendations within its final report, based on its findings.

Section 3. To accomplish the mandates of Section 2, the task force on historic preservation may utilize outside professional services in addition to staff services to be provided by the Kentucky Heritage Council. The use of outside professional services shall be provided for by personal service contract, pursuant to KRS 45A.690 to 45A.725. No state funds shall be utilized for the operation of the task force on historic preservation.

Section 4. The operation of the task force on historic preservation shall be funded with federal historic preservation fund grants. No state funds shall be utilized for the operation of the task force on historic preservation.

Section 5. The final report of the task force on historic preservation shall be submitted to the Governor and the Legislative Research Commission by July 1, 1993 and, upon issuance of its final report, the task force shall cease to exist.

The Committee on Appropriations and Revenue reported **HB 889**, Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 889, AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.620 is amended to read as follows:

(1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities. The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470(12). If the current levy of a district exceeds the required thirty cents ($0.30) and the five cents ($0.05), no additional tax shall be required. However, not less than five cents ($0.05) shall be committed under this subsection. The five cents ($0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment ***when committed to debt service. A district that levies the five cents ($0.05) and does not have debt service may use receipts from the levy for other purposes as determined by the district board of education.***

(b) On July 29, 1985, and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.

(2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.

(4) Not later than October 15 of the year immediately preceding the regular session of the General Assembly the State Board for Elementary and Secondary Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the State Board for Elementary and Secondary Education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The State Board for Elementary and Secondary Education shall conduct public hearings on all amendments to approved plans.

(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of ***the*** [~~such a~~] plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer elects to recommend the new facility plan to the State Board for Elementary and Secondary Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.

The Committee Substitute to **HB 889** is as follows:

HB 889, AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.620 is amended to read as follows:

(1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities. The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470(12). If the current levy of a district exceeds the required thirty cents ($0.30) and the five cents ($0.05), no additional tax shall be required. However, not less than five cents ($0.05) shall be committed under this subsection. The five cents ($0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment ***when committed to debt service. A district that levies the five cents ($0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.***

(b) On July 29, 1985, and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.

(2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.

(4) Not later than October 15 of the year immediately preceding the regular session of the General Assembly the State Board for Elementary and Secondary Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the State Board for Elementary and Secondary Education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The State Board for Elementary and Secondary Education shall conduct public hearings on all amendments to approved plans.

(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of ***the*** [~~such a~~] plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer elects to recommend the new facility plan to the State Board for Elementary and Secondary Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.

The Committee on Appropriations and Revenue reported **HCR 64**, with Committee Substitute and Title Amendment attached thereto, **HCR 110**, with Committee Substitute and Title Amendment attached thereto, and **SB 50**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute to **HCR 64** is as follows:

HCR 64, A CONCURRENT RESOLUTION establishing a Rapid Rail Transportation Planning Commission.

WHEREAS, the urban areas of Louisville, Lexington, and Northern Kentucky are the largest population centers in the Commonwealth; and

WHEREAS, the population concentration within these urban areas has strained limited state facilities and resources, with this strain having been particularly evident in its impact on the existing transportation systems in the area; and

WHEREAS, the increased traffic congestion and accompanying air pollution from motor vehicle exhaust necessitate that alternative modes of transportation be developed within and between the state's largest population centers; and

WHEREAS, a promising solution to these transportation problems is the development of a rapid rail transportation system that initially links the urban areas of Louisville, Lexington, and Northern Kentucky, and will ultimately link the state's rural population centers to the larger urban areas; and

WHEREAS, on November 27, 1991, the United States Congress approved House Resolution 2950, the $151 billion, six-year highway and transit reauthorization bill; and

WHEREAS, under this new act, Kentucky's share of federal highway and transit funds will average $280 million annually; and

WHEREAS, House Resolution 2950 will increase funding for mass transit to $31.5 billion over six years and lower the state ratio of federal/state matching dollars required to 80/20; and

WHEREAS, an additional $9.2 billion is provided in House Resolution 2950 for transit new starts and rail modernization projects;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall conduct a rapid rail transportation planning study during the 1992-93 interim for the purpose of developing long-range planning for mass transit needs within the following counties: Jefferson, Shelby, Franklin, Woodford, Fayette, Scott, Grant, Boone, Kenton, and Campbell.

Section 2. The Transportation Cabinet shall provide the professional expertise needed to conduct this study. The Cabinet shall work with the following groups to solicit input for the rapid rail study:

The county judge/executives from the counties listed in Section 1;

The mayors from cities located in counties listed in Section 1;

A county judge/executive from a county that is not listed in Section 1 and that contains a city of the second class;

A mayor from a city of the second class that is located in a county that is not listed in Section 1; and

Transportation experts.

Section 3. The rapid rail transportation planning study shall review the feasibility of developing a rapid, fixed guideway ground transportation system. The study shall include the following elements:

(a) Existing and new transportation technologies;

(b) Economic and financial analyses;

(c) Ridership demand analyses;

(d) Examination of existing rail corridors;

(e) Priority of corridor development;

(f) Administrative structure, i.e., publicly owned and operated, privately owned and operated, or a public-private partnership;

(g) Environmental impact analysis including strategies for reducing hydrocarbons, carbon monoxide, nitrogen oxides, and noise levels, as well as strategies for energy savings from reduced gasoline consumption;

(h) Implementation schedules for the urban areas of Louisville, Lexington, and Northern Kentucky, and long-range connections to rural population centers; and

(i) Coordination with surrounding states also working to develop rapid rail systems.

Section 4. The Transportation Cabinet shall report on a quarterly basis during the 1992-93 interim to the Interim Joint Committee on Transportation on the status of the rapid rail study.

The Committee Title Amendment to **HCR 64** is as follows:

Amend printed copy of **HCR 64** title to read as follows: "A JOINT RESOLUTION directing a study on rapid rail transportation planning."

The Committee Substitute to **HCR 110** is as follows:

HCR 110, A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a special task force on highway signage.

WHEREAS, the travel and tourism industry in Kentucky contributed nearly $5,000,000,000 to the state's economy in 1990; and

WHEREAS, a total of 126,425 jobs resulted from the travel and tourism industry in 1990, making the industry the second largest private employer in Kentucky; and

WHEREAS, Kentucky has increasingly become a final destination for thousands of tourists, because of the Commonwealth's strategic location and wealth of tourist attractions; and

WHEREAS, Kentucky has an extensive highway system to carry tourists to particular points of interest all throughout the state; and

WHEREAS, the Commonwealth of Kentucky has an obligation to the traveling public to develop a comprehensive highway signage plan that ensures that the state has erected and maintained a sufficient number of signs to guide tourists to their destination in a safe and efficient manner;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Tourism Development and Energy Task Force shall identify and evaluate all categories of highway signs that are currently authorized by local, state, or federal governments, to be utilized for advertising or directional purposes, and shall identify and evaluate categories of highway signs not currently authorized, shall identify and evaluate alternatives to currently authorized highway signs, and shall draft a report that includes a comprehensive highway signage plan based on the findings of the task force.

Section 2. To accomplish the mandates specified in Section 1, the Tourism Development and Energy Task Force shall consult with, but not be limited to consulting with the following:

(1) Tourism Cabinet;

(2) Transportation Cabinet;

(3) Federal Highway Administration;

(4) Scenic Kentucky;

(5) Kentucky Tourism Council;

(6) Outdoor Advertising Association of Kentucky; and

(7) Owners or operators of tourism related businesses and attractions in Kentucky.

Section 3. The report required by Section 1 of this Act shall be submitted to the Legislative Research Commission no later than July 1, 1993.

Section 4. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget, and are subject to the limitations and other research responsibilities of the Commission.

The Committee Title Amendment to **HCR 110** is as follows:

Amend printed copy of **HCR 110** by amending the title to read as follows: "A CONCURRENT RESOLUTION directing the Tourism Development and Energy Task Force to develop a comprehensive highway signage plan."

The Committee Amendment No. 2 to **SB 50** is as follows:

Amend printed copy of **SB 50** on page 1, line 11, by inserting after the word "***cabinet***" a comma (,) and the following language: "***utilizing matching funds available from the Federal Highway Administration's rail/highway grade crossing safety program,***".

The Committee on Health and Welfare reported **HB 456**, with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 456** is as follows:

HB 456, AN ACT relating to health care decisions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act:

(1) "Adult" means a person eighteen (18) years of age or older and who is of sound mind.

(2) "Advance directive" means a living will directive made in accordance with Sections 1 to 13 of this Act, a living will or designation of health care surrogate executed prior to the effective date of Sections 1 to 13 of this Act, and any other document that provides directions relative to health care to be provided to the person executing the document.

(3) "Artificially provided nutrition and hydration" means intravenous or gastrointestinal installation of fluids or nutrients bypassing the normal oral swallowing mechanism.

(4) "Attending physician" means the physician who has primary responsibility for the treatment and care of the patient.

(5) "Decisional capacity" means the ability to make and communicate a health care decision.

(6) "Directive" means a living will directive in writing voluntarily made by an adult in accordance with the provisions of Sections 1 to 13 of this Act.

(7) "Grantor" means an adult who has executed an advance directive in accordance with Sections 1 to 13 of this Act.

(8) "Health care decision" means consenting to, or withdrawing consent for any medical procedure, treatment or intervention.

(9) "Health care facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care, and licensed pursuant to KRS Chapter 216B.

(10) "Life-prolonging treatment" means any medical procedure, treatment, or intervention which:

(a) Utilizes mechanical or other artificial means to sustain, prolong, restore, or supplant a spontaneous vital function; and

(b) When administered to a patient would serve only to prolong the dying process. "Life-prolonging treatment" shall not include the administration of medication or the performance of any medical procedure deemed necessary to alleviate pain.

(11) "Permanently unconscious" means a condition which, to a reasonable degree of medical probability, as determined solely by the qualified patient's attending physician and one (1) other physician on clinical examination, is characterized by an irreversible absence of cerebral cortical functions resulting in a total loss of awareness and purposeful response to the environment.

(12) "Physician" means a person licensed to practice medicine in the Commonwealth of Kentucky.

(13) "Responsible party" means an adult who has authority under Sections 6 to 7 of this Act to make a health care decision for a patient who has not executed a living will directive.

(14) "Surrogate" means an adult who has been designated to make health care decisions in accordance with Sections 1 to 13 of this Act.

(15) "Terminal condition" means a condition caused by injury, disease, or illness which, to a reasonable degree of medical probability, as determined solely by the qualified patient's attending physician and one (1) other physician, is incurable and irreversible and will result in death within a relatively short time, and where the application of life-prolonging treatment would serve only to artificially prolong the dying process.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An adult with decisional capacity may make a written living will directive that does either or both of the following:

(a) Directs the withholding or withdrawal of life-prolonging treatment; or

(b) Designates one (1) or more adults as a surrogate or successor surrogate to make health care decisions on behalf of the grantor. During any period in which two (2) or more surrogates are serving, all decisions shall be by unanimous consent of all the acting surrogates unless the advance directive provides otherwise.

(2) Except as provided in Section 8 of this Act, a living will directive made pursuant to this section shall be honored by a grantor's family, regular family physician or attending physician, and any health care facility of or in which the grantor is a patient.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A living will directive made pursuant to Section 2 of this Act shall be substantially in the following form, and may include other specific directions which are in accordance with accepted medical practice and not specifically prohibited by any other statute. If any other specific directions are held by a court of appropriate jurisdiction to be invalid, that invalidity shall not affect the directive.

"Living Will Directive

My wishes regarding life-prolonging treatment to be provided to me if I no longer have decisional capacity, have a terminal condition, or become permanently unconscious have been indicated by checking and initialing the appropriate lines below. By checking and initialing the appropriate lines, I specifically:

____ Designate ______________ as my health care surrogate(s) to make health care decisions for me in accordance with this directive when I no longer have decisional capacity. If ______________ refuses or is not able to act for me, I designate ______________ as my health care surrogate(s).

Any prior designation is revoked.

If I do not designate a surrogate, the following are my directions to my attending physician. If I have designated a surrogate, my surrogate shall comply with my wishes as indicated below:

____ Direct that treatment be withheld or withdrawn, and that I be permitted to die naturally with only the administration of medication or the performance of any medical treatment deemed necessary to alleviate pain.

____ DO NOT authorize that life-prolonging treatment be withheld or withdrawn.

In the absence of my ability to give directions regarding the use of life-prolonging treatment, it is my intention that this directive shall be honored by my attending physician, my family, and any surrogate designated pursuant to this directive as the final expression of my legal right to refuse medical or surgical treatment and I accept the consequences of the refusal.

If I have been diagnosed as pregnant and that diagnosis is known to my attending physician, this directive shall have no force or effect during the course of my pregnancy.

I understand the full import of this directive and I am emotionally and mentally competent to make this directive.

Signed this ____ day of ________, 19__

Signature and address of the grantor.

In our joint presence, the grantor, who is of sound mind and eighteen years of age, or older, voluntarily dated and signed this writing or directed it to be dated and signed for the grantor.

Signature and address of witness.

Signature and address of witness.

OR

STATE OF KENTUCKY)

________________ County)

Before me, the undersigned authority, came the grantor who is of sound mind and eighteen (18) years of age, or older, and acknowledged that he voluntarily dated and signed this writing or directed it to be signed and dated as above.

Done this ____ day of _________, 19__

Signature of Notary Public or other officer.

Date commission expires: ________________"

(2) An advanced directive shall be in writing, dated, and signed by the grantor, or at the grantor's direction, and either witnessed by two (2) or more adults in the presence of the grantor and in the presence of each other, or acknowledged before a notary public or other person authorized to administer oaths. None of the following shall be a witness to any advance directive made under this section:

(a) A blood relative of the grantor;

(b) A beneficiary of the grantor under descent and distribution statutes of the Commonwealth;

(c) An employee of a health care facility in which the grantor is a patient, unless the employee is a notary public;

(d) An attending physician of the grantor; or

(e) Any person directly financially responsible for the grantor's health care.

(3) A person designated as a surrogate pursuant to an advance directive may resign at any time by giving written notice to the grantor; to the immediate successor surrogate, if any; to the attending physician; and to any health care facility which is then waiting for the surrogate to make a health care decision.

(4) An employee, owner, director, or officer of a health care facility where the grantor is a resident or patient shall not be designated or act as surrogate unless related to the grantor within the fourth degree of consanguinity or affinity or a member of the same religious order.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An advance directive made pursuant to Section 2 of this Act may be revoked by:

(a) A writing declaring an intention to revoke, which writing shall be signed and dated by the grantor;

(b) An oral statement of intent to revoke by a grantor with decisional capacity; or

(c) Destruction of the document by the grantor or by some person in the grantor's presence and at the grantor's direction.

(2) An oral statement by a grantor with decisional capacity to revoke an advance directive shall override any previous written advance directive made.

(3) Any revocation made pursuant to this section shall become effective immediately. An attending physician or health care facility shall not be required to administer treatment in accordance with the revocation until the time notice of the revocation is received. Upon receiving notice of the revocation, the attending physician or health care facility shall record, in the grantor's medical record, the time, date, and place of

the notice receipt. No physician or health care facility shall be subject to any liability for acting in good faith upon the knowledge, or lack thereof, of the existence or revocation of an advance directive.

(4) The designation of a health care surrogate made pursuant to Section 2 of this Act may be revoked in whole or in part or the surrogate's powers reduced or limited at any time by the grantor, if the grantor has decisional capacity. A new designation shall revoke any prior designation unless the revocation, in whole or in part, is specifically negated.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A surrogate designated pursuant to an advance directive may make health care decisions for the grantor which the grantor could make individually if he or she had decisional capacity; provided all the decisions shall be made in accordance with the desires of the grantor as indicated in the advance directive. When making any health care decision for the grantor, the surrogate shall consider the recommendation of the attending physician, and honor the decision made by the grantor as expressed in the advance directive.

(2) The surrogate may not make a health care decision in any situation in which the grantor's attending physician has determined in good faith that the grantor has decisional capacity. The attending physician shall proceed as if there were no designation if the surrogate is unavailable or refuses to make a health care decision.

(3) A health care surrogate may authorize the withdrawal or withholding of artificially provided nutrition and hydration in the following circumstances:

(a) When inevitable death is imminent, which for the purposes of this provision shall mean when death is expected, by reasonable medical judgment, within a few days; or

(b) When the provision of artificial nutrition cannot be physically assimilated by the person; or

(c) When the burden of the provision of artificial nutrition and hydration itself shall outweigh its benefit. Even in the exceptions listed in paragraphs (a), (b), and (c) of this subsection, artificially provided nutrition and hydration shall not be withheld or withdrawn if it is needed for comfort or the relief of pain.

(4) Notwithstanding the execution of an advance directive, life sustaining treatment and artificially provided nutrition and hydration shall be provided to a pregnant woman unless, to a reasonable degree of medical certainty, as certified on the woman's medical chart by the attending physician and one (1) other physician who has examined the woman, the procedures will not maintain the woman in a way to permit the continuing development and live birth of the unborn child, will be physically harmful to the woman, or prolong severe pain which cannot be alleviated by medication.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) If an adult patient, who does not have decisional capacity, has not executed an advance directive or to the extent the advance directive does not address a decision that must be made, any one (1) of the following responsible parties, in the following order of priority if no individual in a prior class is reasonably available, willing, and competent to act, shall be authorized to make health care decisions on behalf of the patient:

(a) The judicially appointed guardian of the patient, if the guardian has been appointed and if medical decisions are within the scope of the guardianship;

(b) The spouse of the patient;

(c) An adult child of the patient, or if the patient has more than one (1) child, the majority of the adult children who are reasonably available for consultation;

(d) The parents of the patient;

(e) The nearest living relative of the patient, or if more than one (1) relative of the same relation is reasonably available for consultation, a majority of the nearest living relatives.

(2) In any case in which a health care decision is made under this section, the decision shall be noted in writing in the patient's medical records.

(3) An individual authorized to consent for another under this section shall act in good faith, in accordance with any advance directive executed by the individual who lacks decisional capacity, and in the best interest of the individual who does not have decisional capacity.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Consent to health care for a minor may be given:

(1) By a judicially-appointed guardian of the minor;

(2) By a parent, if:

(a) There is no guardian;

(b) There is a guardian but the guardian is not reasonably available or declines to act; or

(c) The existence of the guardian is unknown to the health care provider; or

(3) By an adult designated in writing by the parent to act as a parent in the parent's absence, if:

(a) There is no guardian;

(b) There is a guardian but the guardian is not reasonably available or declines to act; or

(c) The existence of the guardian is unknown to the health care provider; or

(4) By an adult sibling of the minor, if:

(a) There is no guardian;

(b) A parent or adult designated by the parent is not reasonably available or declines to act; or

(c) The existence of the parent or individual acting as a parent is unknown to the health care provider.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the responsibility of the grantor or the responsible party of the grantor to provide for notification to the grantor's attending physician and health care facility where the grantor is a patient that an advance directive has been made. If the grantor is comatose, incompetent, or otherwise mentally or physically incapable, any other person may notify the attending physician of the existence of an advance directive. An attending physician who is notified shall promptly make the living will directive or a copy of the advance directive a part of the grantor's medical records.

(2) An attending physician or health care facility which refuses to comply with the advance directive of a patient or decision made by a surrogate or responsible party shall immediately inform the patient or the patient's responsible party and the family or guardian of the patient of the refusal. No physician or health care facility which refuses to comply with the advance directive of a qualified patient or decision made by a responsible party shall impede the transfer of the patient to another physician or health care facility which will comply with the advance directive. If the patient, the family, or the guardian of the patient has requested and authorized a transfer, the transferring attending physician and health care facility shall supply the patient's medical records and other information or assistance medically necessary for the continued care of the patient, to the receiving physician and health care facility.

(3) No physician, nurse, staff member, or employee of a public or private hospital, or employee of a public or private health care facility, who shall state in writing to the hospital or health care facility his objection to complying with the advance directive of a patient or a health care decision of a responsible party under Sections 1 to 13 of this Act, on moral, religious, or professional grounds, shall be required to, or held liable for refusal to, comply with the advance directive or health care decision as long as the physician, nurse, staff member, or employee complies with the requirements of subsection (2) of this section regarding patient notification and patient transfer.

(4) It shall be unlawful discriminatory practice for any person to impose penalties or take disciplinary action against or deny or limit licenses, certifications, degrees, or other approvals or documents of qualification to any physician, nurse staff member, or employee who refuses to comply with the advance directive of a patient or a health care decision by a responsible party under Sections 1 to 13 of this Act, as long as

the physician, nurse staff member, or employee complies with the provisions of subsection (2) of this section regarding notification and transfer.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A health care facility, physician, or other person acting under the direction of a physician shall not be subject to criminal prosecution or civil liability or be deemed to have engaged in unprofessional conduct as a result of the withholding or the withdrawal of life-prolonging treatment from a patient in a terminal condition in accordance with an advance directive executed pursuant to Sections 1 to 13 of this Act. A person who authorizes the withholding or withdrawal of life-prolonging treatment a patient in a terminal condition in accordance with an advance directive shall not be subject to criminal prosecution or civil liability for the action.

(2) An independent investigation of a surrogate's authority shall not be necessary unless a person is in possession of information as to the surrogate's disqualification. No surrogate, responsible party, physician, or health care facility acting in good faith, shall be subject to criminal or civil liability for giving instructions as a surrogate, making a health care decision as a responsible party under Sections 1 to 13 of this Act, or carrying out, or refusing to carry out pursuant to Section 8 of this Act, the surrogate's or responsible party's instructions or acting in reliance on the grantor's designation of a surrogate or a health care decision by a responsible party under Sections 1 to 13 of this Act.

(3) The provisions of this section shall apply unless it is shown by a preponderance of the evidence that the person:

(a) Authorizing or effectuating the withholding or withdrawal of life-prolonging treatment;

(b) Giving instructions as a surrogate;

(c) Making a health care decision as a responsible party under Sections 1 to 13 of this Act;

(d) Carrying out, or refusing to carry out, the surrogate's or responsible party's instructions; or

(e) Acting in reliance on the grantor's designation of a surrogate or a health care decision by a responsible party under Sections 1 to 13 of this Act,

did not, in good faith, comply with the provisions of Sections 1 to 13 of this Act.

(4) An advance directive made in accordance with Sections 1 to 5 of this Act shall be presumed to have been made voluntarily and validly executed unless the attending physician or health care facility has actual knowledge to the contrary.

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The withholding or withdrawal of life-prolonging treatment from a grantor in accordance with the provisions of Sections 1 to 13 of this Act shall not, for any purpose, constitute a suicide. The making of an advance directive under Sections 1 to 5 of this Act or a health care decision by a responsible party under Sections 1 to 13 of this Act shall not affect in any manner the sale, procurement, or issuance of any policy of life insurance, nor shall it be considered to modify the terms of an existing policy of life insurance. Notwithstanding any term of the policy to the contrary, no policy of life insurance shall be legally impaired or invalidated in any manner by a health care decision made by a surrogate or responsible party or by the withholding or withdrawal from an insured patient any medical procedure or intervention which would serve only to prolong artificially the dying process.

(2) No person, corporation, or governmental agency shall require or induce any person to execute a living will directive or to make a health care decision as a responsible party under Sections 1 to 13 of this Act as a condition for a contract or for the provision of any service, medical treatment, or benefit.

(3) Nothing in Sections 1 to 13 of this Act shall be construed to impose any liability on a surrogate or responsible party for any expenses of the grantor for which the surrogate or responsible party would not otherwise have been liable.

(4) Sections 1 to 13 of this Act shall not create a presumption concerning the intention of an adult who has revoked or has not executed an advance directive with respect to the use, withholding, or withdrawal of life-prolonging treatment if a terminal condition exists.

(5) Sections 1 to 13 of this Act shall not affect the common law or statutory right of an adult to make decisions regarding the use of life-prolonging treatment, so long as the adult is able to do so, or impair or supersede any common law or statutory right that an adult has to effect the withholding or withdrawing of medical care.

(6) Sections 1 to 13 of this Act shall not preclude or restrict the right of persons to make advance directives outside the provisions of Sections 1 to 13 of this Act; and Sections 1 to 13 of this Act shall not restrict or preclude medical personnel, physicians, nurses, or health care facilities from following other written advance directives consistent with accepted medical practice.

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 13 of this Act shall not be construed to condone, authorize, or approve mercy killing or euthanasia, or to permit any affirmative or deliberate act to end life other than to permit the natural process of dying.

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person who willfully conceals, cancels, defaces, obliterates, or damages the advance directive of another without the grantor's consent or who falsifies or forges a revocation of the advance directive of another, thereby causing life-prolonging treatment to be utilized in contravention of the previously expressed intent of the patient shall be civilly liable.

(2) Any person who falsifies or forges the advance directive of another, or willfully conceals or withholds personal knowledge of the revocation of an advance directive, with the intent to cause a withholding or withdrawal of life-prolonging treatment, contrary to the wishes of the grantor, and thereby causes life-prolonging treatment to be withheld or withdrawn and death to be hastened, shall be guilty of a Class B felony.

SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 13 of this Act may by cited as the "Kentucky Living Will Directive Act."

Section 14. The following KRS sections are repealed:

311.622 Legislative finding.

311.624 Definitions for KRS 311.622 to 311.644.

311.626 Declaration — Witness.

311.628 Notification of declarant's attending physician of existence of declaration.

311.630 Revocation procedures.

311.632 Exemption of health care facility or physician from criminal prosecution or civil liability for actions.

311.634 Notification of patient when attending physician or health care facility refuses to comply — Transfer of patient.

311.636 Construction of KRS 311.622 to 311.644.

311.638 Withholding or withdrawal of life-prolonging treatment not to constitute suicide — Effect of declaration on life insurance.

311.640 Effect of KRS 311.622 to 311.644 on intention or right of adult.

311.642 Civil liability — Penalty.

311.644 Short title.

311.970 Definitions for KRS 311.970 to 311.986.

311.972 Designation of surrogate — Resignation — Persons prohibited from serving.

311.974 Execution of designation.

311.976 Revocation of designation.

311.978 Powers of surrogate — Limitations.

311.980 Form of designation.

311.982 Refusal of health care provider to comply with designation — Effect of refusal.

311.984 Liabilities of surrogate — Effect of designation on life insurance — Right to make decision as to use of life-prolonging treatment.

311.986 Short Title.

The Committee on Health and Welfare reported **HB 528**, with Committee Substitute and Committee Amendment attached thereto, **HB 588**, **HB 740**, with Committee Substitute attached thereto, and **HB 799** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 528, AN ACT relating to the practice of social work.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) All persons employed in the practice of social work on August 1, 1992, in agencies previously exempt under this chapter shall be eligible for licensure in the following manner:

(a) The requirement that an applicant for licensure as a social worker pass an examination shall be waived from August 1, 1992, to February 1, 1994. To be licensed without examination during this period an applicant shall either meet all other requirements set forth in KRS 335.090(1), except the requirement to pay the examination fee, or provide evidence of current employment in a social work capacity by an agency previously exempt under this chapter. If qualifying by current employment, the applicant shall meet all other requirements set forth in KRS 335.090(1), except the requirement to pay the examination fee.

(b) The requirement that an applicant for licensure as a certified social worker pass an examination shall be waived from August 1, 1992, to February 1, 1994. To be licensed without examination during this period an applicant shall either meet all other requirements set forth in KRS 335.080(1), except the requirement to pay the examination fee, or provide evidence of current employment in a social work capacity by an agency previously exempt under this chapter. If qualifying by current employment the applicant shall meet all other requirements set forth in KRS 335.080(1), except the requirement to pay the examination fee.

(c) The requirement that an applicant for a certificate of qualification of independent practice pass an examination shall be waived from August 1, 1992, to February 1, 1994. To be certified without examination during this period an applicant shall either meet all other requirements set forth in KRS 335.100(1), except the requirement to pay the examination fee, or provide evidence of current employment in a social work capacity by an agency previously exempt under this chapter. If qualifying by current employment, the applicant shall meet all other requirements set forth in KRS 335.100(1), except the requirement to pay the examination fee.

(2) Applications for licensure under the provisions of this section shall be received by the board on or before February 1, 1994. No application for licensure under the provisions of this section received after February 1, 1994, shall be considered or approved by the board.

Section 2. KRS 335.020 is amended to read as follows:

As used in ***this chapter*** [~~KRS 335.010 to 335.160 and 335.990~~], unless the context otherwise requires:

(1) "Board" means the State Board of Examiners of Social Work of Kentucky.

(2) "The practice of social work" means the professional activity of helping for remuneration individuals, groups, or communities enhance or restore their capacity for social functioning and create societal conditions favorable to this goal. It includes the professional application of social work values, principles, and techniques

to one ***(1)*** or more of the following ends: counseling and non-medical psychotherapy with individuals, families and groups; helping people obtain tangible services; assisting communities or groups provide or improve social and health services; and engaging in social work education, research, planning and the appropriate administration of social work or social welfare services.

(3) "The independent practice of social work" means that practice of social work which an individual practices outside those settings specifically exempted by KRS 335.010, if the individual has responsibility for his own practice and sets up his own conditions of exchange with his clients and identifies himself in any manner as a social work practitioner in offering services. A social work employee of any individual, institution, or organization except those exempted by KRS 335.010 who provides social work services and is paid by those individuals, institutions, or organizations, rather than by direct arrangement with the client, shall be within the definition of the independent practice of social work.

(4) "Clinical social work" means that practice which focuses on the evaluation and treatment of emotional disorders and mental illness as related to the total health of the individual. Clinical social work shall be based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics. Practitioners shall possess numerous skills including those necessary for individual, marital, family, and group psychotherapy, as well as other methods of treatment.

Section 3. KRS 335.030 is amended to read as follows:

(1) [~~After one year from June 21, 1974, except as provided in KRS 335.010 to 335.160 and 335.990,~~] No person shall engage in the practice of social work unless he is licensed in accordance with the provisions of ***this chapter*** [~~KRS 335.010 to 335.160 and 335.990, and~~]

(2) No person shall hold himself out to the public by any title or description of services representing himself as a "Certified Social Worker," "Social Worker," or any other title that includes ***these*** [~~such~~] words except as ***the*** [~~such~~] usage of title or description is authorized by ***this chapter*** [~~KRS 335.010 to 335.160 and 335.990~~].

(3) No person shall represent another to the public by any title or description of services designating the other person as a "certified social worker," "social worker," or any other title that includes these words except as the usage of title or description is authorized by this chapter.

(4) The board may, in combination with professional social work membership organizations, contact all major sources of news media in an attempt to educate the public and the news media regarding the provisions of this chapter.

Section 4. KRS 335.050 is amended to read as follows:

(1) There is hereby created a State Board of Examiners of Social Work of Kentucky which shall consist of seven (7) members appointed by the Governor. Two (2) members shall be[~~, or be eligible to be,~~] certified social workers under the provisions of KRS ***335.080*** [~~335.010 to 335.160 and 335.990~~], who shall have rendered service, education, or research in social work for at least five (5) years. Two (2) members shall be[~~, or be eligible to be,~~] social workers under the provisions of KRS ***335.090*** [~~335.010 to 335.160 and 335.990~~], who shall have rendered service in social work for at least two (2) years. Two (2) members shall be[~~, or be eligible to be,~~] certified social workers licensed under the provisions of KRS ***335.100*** [~~335.010 to 335.160 and 335.990~~] to engage in the independent practice of social work ***for at least two (2) years***. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. [~~The social worker member shall be appointed from a list of names of qualified persons submitted by any interested parties. The Governor may request the submission of additional names.~~]

(2) ***The two (2) licensed social worker members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled. The nominees shall be selected by all social workers licensed under KRS 335.090 from a list of eligible candidates prepared by the Kentucky Chapter of the National Association of Social Workers for the board. Candidates shall be solicited from all social workers licensed under KRS 335.090 and each nominee shall be a social worker licensed according to the provisions of KRS 335.090.***

(3) The two (2) certified social worker members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes,for each position to be filled. The nominees shall be selected by all certified social workers licensed under KRS 335.080 from a list of eligible candidates prepared by the Kentucky Chapter of the National Association of Social Workers for the board. Candidates shall be solicited from all social workers licensed under KRS 335.080 and each nominee shall be a social worker licensed according to the provisions of KRS 334.080.

(4) The two (2) certified social worker members licensed for independent practice shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled. The nominees shall be selected by all certified social workers licensed for independent practice under KRS 335.100 from a list of eligible candidates jointly prepared by the Kentucky Chapter of the National Association of Social Workers and the Kentucky Society for Clinical Social Work for the board. Candidates shall be solicited from all certified social workers licensed for independent practice under KRS 335.100 and each nominee shall be a certified social worker licensed for independent practice according to the provisions of KRS 335.100.

(5) Members of the board shall be appointed for terms of four (4) years except appointments to fill vacancies caused by a reason other than the expiration of a member's term. ***No member shall serve more than two (2) terms.*** Upon recommendation of ***a majority of*** the board, made after notice and hearing, the Governor may remove any member of the board for incompetence, neglect of duty, or malfeasance in office.

(6)[~~(3)~~] ***The Governor shall fill any vacancy occurring on the board in the manner prescribed in this section for the original appointment of the board members*** [~~Any vacancy of a social worker member shall be filled by the Governor from a list as described in subsection (1) of this section~~].

(7)[~~(4)~~] The board shall organize upon appointment and qualification of its members, and shall elect annually from its membership a chairman, vice chairman, and a secretary. The board shall meet in February and in August of each year, and as frequently as it deems necessary at such times and places as the board designates. The additional meetings may be held upon call of the chairman or upon the written request of three (3) members of the board. Four (4) members of the board shall constitute a quorum.

(8)[~~(5)~~] The board ***may request that administrative services, technical assistance, and advice be provided by*** [~~shall be attached to~~] the Division of Occupations and Professions in the Finance and Administration Cabinet pursuant to the provisions of KRS 42.066. ***The principal office of the board shall be in Frankfort, but it may meet or conduct any of its business at any place in this state.***

Section 5. KRS 335.060 is amended to read as follows:

The members of the board, except the secretary, shall receive per diem compensation to be established by the secretary of the Finance and Administration Cabinet. This compensation shall not exceed ***one hundred dollars ($100)*** [~~fifty dollars ($50)~~] per day. Members may be reimbursed for their reasonable necessary expenses incurred in the performance of their duties. Reimbursement shall not be made if available funds are insufficient for this purpose. If the board decides to compensate the secretary, it shall, in its discretion, fix his compensation.

Section 6. KRS 335.070 is amended to read as follows:

(1) The board shall administer and enforce the provisions of ***this chapter*** [~~KRS 335.010 to 335.160 and 335.990~~], and may ***promulgate administrative*** [~~adopt rules and~~] regulations consistent with its provisions, including a code of ethical practice for certified social workers***,*** [~~and~~] social workers ***and licensees certified for independent practice.***

(2) The board shall review and act upon applications for licensure at least twice each year, and shall regulate the renewal of licenses.

(3) The board may conduct hearings on charges calling for the denial, revocation or suspension of a license, shall ***promulgate administrative regulations*** [~~adopt rules~~] for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provisions of ***this chapter*** [~~KRS 335.010 to 335.160 and 335.990~~], or any ***administrative*** [~~rule or~~] regulation promulgated pursuant to its provisions.

(4) The board may sue and be sued in its own name.

(5) The board ***shall establish written criteria to*** [~~may~~] employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation. ***This criteria, along with the roster of approved potential contractors, shall be made public. The roster of approved potential contractors shall be determined by the board at least sixty (60) days prior to the beginning of each calendar year.***

(6) The board shall maintain a register of certified social workers, social workers, and licensees certified for private practice. The register shall be a public record.

(7) The board shall keep a complete record of all of its proceedings.

(8) ***Notwithstanding any statute to the contrary, all disciplinary proceedings of the board shall be closed to the public and all records pertaining thereto shall be held confidential and shall not be divulged except to the extent necessary for law enforcement purposes. The board shall publish its final order in all disciplinary proceedings in both public and professional news media.***

(9) The board shall set by ***administrative*** regulation a fee schedule for examinations, [~~said fees to be~~] sufficient to cover the cost of preparation, administration, and grading of the examinations. ***Notwithstanding the fee schedules specified in this chapter, the board may, for good cause increase or decrease fees as it deems appropriate by promulgation of an administrative regulation***[~~, but not to exceed seventy-five dollars ($75) for any one examination~~].

(10) The board may, upon acceptance of an application to sit for examination, grant temporary permission to practice under conditions established by the board by administrative regulation.

(11) The board may, upon acceptance of an application to sit for examination at any level if the application is accompanied by medical documentation, grant exemption to the applicant from taking the examination. In this case, the board shall devise other criteria to substitute for taking the examination. This criteria shall be made available to the public.

Section 7. KRS 335.100 is amended to read as follows:

(1) After one (1) year from June 21, 1974, no person shall engage in the independent practice of social work unless he meets the following requirements:

(a) Is licensed under KRS ***335.080*** [~~335.010 to 335.160 and 335.990~~] as a certified social worker;

(b) Has had a minimum of two (2) years of full time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, post-master's degree experience acceptable to the board in the use of specialty methods and measures to be employed in independent practice.[~~,~~] The experience ***requirement for the certificate of independent practice of clinical social work as provided for in this subsection shall be*** [~~having been~~] acquired under appropriate supervision ***as determined by the board by promulgation of an administrative regulation.***

(c) Has paid to the board an examination fee fixed by the board;

(d) Has passed an examination prepared by the board for this purpose;

(e) Has not within the preceding six (6) months failed to pass an examination given by the board;

(f) Has complied with KRS 214.615(1).

(2) The board shall issue a certificate of qualification for independent practice stating area or areas of specialty certification. This certificate shall be displayed with the license in the licensee's principal place of practice.

(3) Areas of specialty certification shall include "clinical social work"***, "certified social worker specialist",*** and others as defined by the board. Any use of the titles of specialty certification shall be restricted to persons so qualified under KRS 335.100.

(4) Individual requirements of supervised work experience may be different for each specialty certificate with the requirements for the clinical social work certificate being the most stringent. Applicants for the certificate of certified social worker specialist shall be deemed to have appropriate supervision when a statement of competency is filed by their immediate agency supervisor attesting to the applicant's competency.

(5) A certified social worker who has been granted a certificate for independent practice as a certified social worker specialist may function without supervision of his practice in areas except for the area of clinical social work.

(6) Persons granted a certificate for independent practice as a clinical social worker may function without further supervision and may employ and supervise certified social workers and social workers as well as other licensees certified for independent practice.

Section 8. KRS 335.120 is amended to read as follows:

The board ***shall*** [~~may~~] grant the appropriate license without examination to any person who at the time of application holds a valid license from another state ***comparable to the license issued under KRS 335.080 or 335.090,*** and who meets the current minimum requirements for licensure in Kentucky [~~provided a reciprocal agreement exists between the states~~]. ***A certificate for independent practice as a clinical social worker may be granted without examination to any person who at the time of application holds a valid license for independent practice from another state and who meets the minimum requirements for a certificate for independent practice as a clinical social worker in Kentucky provided a reciprocal agreement exists between states.***

Section 9. KRS 335.130 is amended to read as follows:

(1) Each certified social worker, social worker, and licensee holding a certificate of qualification for independent practice shall renew his license or certificate every three (3) years, and shall pay the board a renewal fee not to exceed thirty dollars ($30) per year as fixed by the board ***by promulgation of an administrative regulation.***

(2) Licensees whose licenses or certificates are renewed by the board shall be issued a renewal license or certificate.

(3) Renewal fees shall be waived for any licensee actually serving in the armed forces of the United States. The waiver shall be effective for six (6) months following honorable discharge, separation, or release from the armed forces, after which period a license or certificate shall be considered lapsed.

(4) The board ***shall*** [~~may, at its discretion,~~] require continuing education as a condition of license renewal. ***The board, as a condition for renewals of licenses and certificates, shall establish, by promulgation of an administrative regulation, requirements for a minimum of thirty (30) contact hours of continuing education per renewal period. Credit for contact hours may only be received for classroom instruction under the direct supervision of an instructor. These contact hours may be received from a university accredited by the Council on Social Work Education, or from a state division of a national professional organization which regularly approves social work continuing education courses.***

(5) Two (2) contact hours annually or a minimum total of six (6) contact hours per renewal period shall comply with requirements specified in KRS Chapter 214.

Section 10. KRS 335.150 is amended to read as follows:

(1) The board may hear grievances of persons whose applications for a license have been denied.

(2) The board may deny, revoke, or suspend any license upon proof that the person has willfully or repeatedly violated any of the provisions of ***this chapter*** [~~KRS 335.010 to 335.160 and 335.990~~], or has failed to comply with the requirements in KRS 214.610(1) or any ***administrative*** [~~rule or~~] regulation promulgated by the board. The course described in KRS 214.610(1) shall be completed annually and may be ***included as*** [~~a~~] part of any continuing education course ***actually attended by licensee.***

(3) The board shall not suspend, revoke or refuse to renew a license except after a hearing held before the board upon notice to the person charged.

(4) The notice shall be in writing, shall state the nature of the charges, the time and place of the hearing, and shall be served on the person charged by certified mail not less than thirty (30) days prior to the date of the hearing.

(5) The person charged may appear in person or by counsel, may testify and may produce evidence and witnesses on his own behalf, may cross-examine witnesses, and shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(6) The board, or its duly authorized representative on its behalf, shall have authority to issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths. The board may invoke the aid of the Circuit Court for the county in which the hearing is held to enforce compliance with its subpoenas.

(7) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.

(8) At all hearings before the board the Attorney General of the Commonwealth, or one ***(1)*** of his assistants designated by him shall appear and represent the board.

(9) The decision of the board shall be by majority vote [~~thereof~~].

(10) A copy of the board's order shall be sent by certified mail to the person charged at his last known address.

(11) The board may grant a rehearing when new and material evidence is offered for its consideration.

(12) Any person aggrieved by a final order of the board may within thirty (30) days of the entry of the order, appeal to the Circuit Court for the county in which he resides. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by the court. An appeal may be taken from the judgment of the Circuit Court on any such appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.

Section 11. KRS 335.160 is amended to read as follows:

If [~~When it appears to~~] the board ***obtains documentation*** that a person is violating any provision of ***this chapter*** [~~KRS 335.010 to 335.160 and 335.990~~], the board may institute, in its own name, in a court of competent jurisdiction, a proceeding to restrain and enjoin the violation without regard to whether proceedings have been, or may be instituted under other provisions of ***this chapter*** [~~KRS 335.010 to 335.160 and 335.990~~]. The board or any member thereof, shall not be required to furnish bond for any costs or filing fees in connection with the proceeding.

The Committee Substitute to **HB 528** is as follows:

HB 528, AN ACT relating to the practice of social work.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 335.010 is amended to read as follows:

(1) It is the purpose and policy of the Commonwealth of Kentucky to protect the public from being misled by incompetent and unauthorized persons, and from unprofessional conduct on the part of qualified social workers by providing regulatory authority over persons who hold themselves out to the public as ***licensed*** social workers.

(2) The purpose of KRS 335.010 to 335.160 and 335.990 is to promote high standards of professional performance for those engaged in the profession of social work by regulating the title, and by setting standards of qualification, training and experience for those who seek to engage in the practice of ***licensed*** social work.

(3) Nothing contained in KRS 335.010 to 335.160 and 335.990 shall be applicable to employees of the State Department of Education or local boards of education who meet the certification requirements in the area of social work as established, or which may be established, by the State Board for Elementary and Secondary Education. Nor shall anything in KRS 335.010 to 335.160 and 335.990 be construed to apply to, limit, or restrict the regulation of the title, setting of standards, qualifications, training or experience of those who seek to engage in the practice of social work and who have been, or will be, certified by the State Board for Elementary and Secondary Education for the position for which they have been employed.

[~~(4) Nothing contained in KRS 335.010 to 335.160 and 335.990 shall require persons employed by the Commonwealth of Kentucky, the director or administrative head of a social service agency or division of a city, county or urban-county government or applicants for such employment to be licensed.~~

~~(5) Nothing contained in KRS 335.010 to 335.160 and 335.990 shall require persons employed by church-related or church-operated or affiliated agencies, childrens' homes, neighborhood centers, or other philanthropic and nonprofit field service offices to be licensed. The provisions of KRS 335.010 to 335.160 and 335.990 shall not be construed to apply to, limit or restrict the regulation of the title, setting of standards, qualifications, training and experience of those engaged as employees of such entities in the practice of social work or applied social counseling.~~]

Section 2. KRS 335.020 is amended to read as follows:

As used in KRS 335.010 to 335.160 and 335.990, unless the context otherwise requires:

(1) "Board" means the State Board of Examiners of Social Work of Kentucky.

(2) "The practice of ***licensed*** social work" means the professional activity of helping for remuneration individuals, groups, or communities enhance or restore their capacity for social functioning and create societal conditions favorable to this goal. It includes the professional application of social work values, principles, and techniques to one ***(1)*** more of the following ends: counseling and non-medical psychotherapy with individuals, families and groups; helping people obtain tangible services; assisting communities or groups provide or improve social and health services; and engaging in social work education, research, planning and the appropriate administration of social work or social welfare services.

(3) "The independent practice of licensed social work" means the practice in which an individual who, wholly or in part, practices social work outside those settings specifically exempted by KRS 335.010 and has responsibility for his own practice and sets up his own conditions of exchange with his clients and identifies himself in any manner as a licensed social work practitioner in offering services. In addition, a social work employee of any individual, institution, or organization except those exempted by KRS 335.010 who is providing social work service and paid by the individual, institutions, or organizations rather than by direct arrangement with the client is considered within the definition of the independent practice of licensed social work.

(4) "Clinical social work" means the practice which focuses on the evaluation, nonmedical diagnosis, and treatment of emotional disorders and mental illness as related to the total health of the individual. The practice is based on knowledge of psychodynamics, human relations, crisis intervention, psychopathology, and group dynamics. Practitioners have numerous skills including those necessary for individual, marital, family and group psychotherapy, as well as other treatment modalities.

Section 3. KRS 335.030 is amended to read as follows:

[~~After one year from June 21, 1974,~~] Except as provided in KRS 335.010 to 335.160 and 335.990, no person shall engage in the practice of ***licensed*** social work unless ***the person*** [~~he~~] is licensed in accordance with the provisions of KRS ***Chapter 335*** [~~335.010 to 335.160 and 335.990,~~] and no person shall hold himself ***or herself*** out to the public by any title or description of services representing himself ***or herself*** as a "certified social worker," "***licensed*** social worker," or any other title that includes such words except as such usage of title or description is authorized by KRS ***Chapter 335*** [~~335.010 to 335.160 and 335.990~~]. ***No identifiable source shall represent a person to the public by any title or description of services designating the person as a "certified social worker," "licensed social worker," or any other title that includes these words except as the usage of the title or description is authorized by KRS 335.010 to 335.160 and 335.990. The board may, in combination with professional social work membership organizations, contact all major sources of the news media in an attempt to educate the public and the news media of the provisions of this section.***

Section 4. KRS 335.050 is amended to read as follows:

(1) There is hereby created a State Board of Examiners of Social Work of Kentucky which shall consist of seven (7) members appointed by the Governor. Two (2) members shall be[~~, or be eligible to be,~~] certified social workers under the provisions of KRS 335.010 to 335.160 and 335.990, who shall have rendered service, education or research in social work for at least five (5) years. Two (2) members shall be[~~, or be eligible to be,~~] social workers ***licensed*** under the provisions of KRS 335.010 to 335.160 and 335.990, who shall have rendered service in social work for at least two (2) years. Two (2) members shall be[~~, or be eligible to be,~~] certified social workers licensed ***for at least two (2) years*** under the provisions of KRS 335.010 to 335.160 and 335.990 to engage in the independent practice of social work. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. [~~The social worker member shall be appointed from a list of names of qualified persons submitted by any interested parties. The Governor may request the submission of additional names.~~]

(2) The licensed social worker members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all social workers licensed under this chapter from a list of eligible candidates jointly prepared for the board by the Kentucky Chapter of the National Association of Social Workers and the Kentucky Society for Clinical Social Work. Candidates for nomination shall be solicited from all social workers licensed under this chapter, and each nominee shall be a social worker licensed under this chapter. The solicitation will be paid for by the organizations preparing the list.

(3) The certified social worker members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all certified social workers licensed under this chapter from a list of eligible candidates jointly prepared for the board by the Kentucky Chapter of the National Association of Social Workers and the Kentucky Society for Clinical Social Work. Candidates for nomination shall be solicited from all social workers certified under this chapter, and each nominee shall be a certified social worker licensed under this chapter. This solicitation shall be paid for by the organizations preparing the list.

(4) The social workers licensed for independent practice members shall be appointed by the Governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all social workers licensed for independent practice under this chapter from a list of eligible candidates jointly prepared by the Kentucky Chapter of the National Association of Social Workers and the Kentucky Society for Clinical Social Work for the board. Candidates for nomination shall be solicited from all social workers licensed for independent practice under this chapter, and each nominee shall be a social worker licensed under this chapter. This solicitation shall be paid for by the organizations preparing the list.

(5)[~~(2)~~] Members of the board shall be appointed for terms of four (4) years except appointments to fill vacancies caused by a reason other than the expiration of a member's term. ***No member shall serve more than two (2) terms in a lifetime.*** Upon recommendation of the ***majority of the*** board, made after notice and hearing, the Governor may remove any member of the board for incompetence, neglect of duty, or malfeasance in office.

(6)[~~(3)~~] ***The Governor shall fill any remaining vacancy occurring in the board in the manner prescribed in subsections (1) to (4) of this section*** [~~Any vacancy of a social worker member shall be filled by the Governor from a list as described in subsection (1) of this section~~].

(7)[~~(4)~~] The board shall organize upon appointment and qualification of its members, and shall elect annually from its membership a chairman, vice chairman, and a secretary. The board shall meet in February and in August of each year, and as frequently as it deems necessary at such times and places as the board designates. The additional meetings may be held upon call of the chairman or upon the written request of three (3) members of the board. Four (4) members of the board shall constitute a quorum.

(8)[~~(5)~~] The board ***may*** [~~shall~~] be attached to the Division of Occupations and Professions in the Finance and Administration Cabinet pursuant to the provisions of KRS 42.066. ***The principal office of the board shall be in Frankfort, but the board may meet or conduct business at any place in the Commonwealth.***

Section 5. KRS 335.070 is amended to read as follows:

(1) The board shall administer and enforce the provisions of KRS ***Chapter 335*** [~~335.010 to 335.160 and 335.990~~], and may ***promulgate, pursuant to the provisions of KRS Chapter 13A, administrative*** [~~adopt rules and~~] regulations consistent with ***the*** [~~its~~] provisions ***of KRS Chapter 13A,*** including a code of ethical practice for certified social workers***, licensed*** [~~and~~] social workers***, and licensees certified for independent practice.***

(2) The board shall review and act upon applications for licensure at least twice each year, and shall regulate the renewal of licenses.

(3) The board may conduct hearings on charges calling for the denial, revocation, or suspension of a license, shall adopt ***administrative regulations*** [~~rules~~]]for the conduct of the hearings, and shall cause the prosecution of all persons who violate any provisions of KRS ***Chapter 335*** [~~335.010 to 335.160 and 335.990~~], or any ***administrative*** [~~rule or~~] regulation promulgated pursuant to its provisions.

(4) The board may sue and be sued in its own name.

(5) The board ***shall establish written criteria for the employment of*** [~~may employ~~] any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation. ***This criteria along with the roster of approved potential contractees shall be made public. The roster of approved potential contractees shall be determined by the board at least sixty (60) days prior to the beginning of each calendar year.***

(6) The board shall maintain a register of certified social workers, ***licensed*** social workers, and licensees certified for ***independent*** [~~private~~] practice. The register shall be a public record.

(7) The board shall keep a complete record of all of its proceedings.

(8) ***The board shall publish its final order in all disciplinary proceedings in both public and professional news media.***

(9) The board shall set by ***administrative*** regulation a fee schedule for examinations. ***The fees shall***[~~, said fees to~~] be sufficient to cover the cost of preparation, administration and grading of the examinations[~~, but not to exceed seventy-five dollars ($75) for any one examination~~]. ***Notwithstanding the fee schedules specified in this chapter, the board may, for good cause, increase or decrease fees as it deems appropriate.***

(10) The board may, upon acceptance of an application to sit for examination, grant temporary permission to practice under conditions established by the board by administrative regulation.

(11) The board may, upon acceptance of an application to sit for examination at any level when that application is accompanied by medical documentation, grant exemption to the applicant from taking the examination. In that case, the board shall devise other criteria to substitute for taking the examination. This criteria shall be made available to the public.

Section 6. KRS 335.100 is amended to read as follows:

(1) [~~After one (1) year from June 21, 1974,~~] No person shall engage in the independent practice of social work unless ***the person*** [~~he~~] meets the following requirements:

(a) Is licensed under KRS 335.010 to 335.160 and 335.990 as a certified social worker;

(b) Has had a minimum of two (2) years of full time post-master's experience, consisting of at least thirty (30) hours per week, or three (3) years of part time, consisting of at least twenty (20) hours per week, post-master's degree experience acceptable to the board in the use of specialty methods and measures to be employed in independent practice.[~~;~~] The experience ***for the certificate of independent practice of clinical social work*** having been acquired under appropriate supervision***, as determined by the board through administrative regulation;***[~~.~~]

(c) Has paid to the board an examination fee fixed by the board;

(d) Has passed an examination prepared by the board for ***the*** [~~this~~] purpose ***of specialty certification of independent practice of clinical social work***;

(e) Has not within the preceding six (6) months failed to pass an examination given by the board; ***and***

(f) Has complied with KRS 214.615(1).

(2) The board shall issue a certificate of qualification for independent practice stating area or areas of specialty certification. This certificate shall be displayed with the license in the licensee's principal place of practice.

(3) Areas of specialty certification shall include "clinical social work" and others as defined by the board. Any use of the titles of specialty certification shall be restricted to persons so qualified under ***this section*** [~~KRS 335.100~~].

(4) Individual requirements of supervised work experience may be different for each specialty certificate with the requirements for the clinical social work certificate being the most stringent. Applicants for other areas of specialty certification shall be deemed to have appropriate supervision when a statement of competency is filed by their immediate agency supervisor attesting to the applicant's competency.

(5) A certified social worker who has been granted a certificate for independent practice in any other area of specialty certification may function without supervision of his or her practice in areas except for the area of independent practice of clinical social work.

(6) Persons granted a certificate for independent practice as a clinical social worker may function without further supervision and may employ and supervise certified social workers and social workers as well as other licensees certified for independent practice.

Section 7. KRS 335.120 is amended to read as follows:

The board ***shall*** [~~may~~] grant the appropriate license without examination to any person who at the time of application holds a valid license ***at either the baccalaureate or master's level*** from another state [~~and who meets the current minimum requirements for licensure in Kentucky provided a reciprocal agreement exists between the states~~]***. A certificate for independent practice as a clinical social worker may be granted without examination to any person who at the time of application holds a valid license for independent practice from another state which uses a nationally recognized test as specified by the board and who meets the minimum requirements for a certificate for independent practice as a social worker in Kentucky.***

Section 8. KRS 335.130 is amended to read as follows:

(1) Each certified social worker, ***licensed*** social worker and licensee holding a certificate of qualification for independent practice shall renew his license or certificate every three (3) years, and shall pay the board a renewal fee not to exceed thirty dollars ($30) per year as fixed by the board.

(2) Licensees whose licenses or certificates are renewed by the board shall be issued a renewal license or certificate.

(3) Renewal fees shall be waived for any licensee actually serving in the armed forces of the United States. The waiver shall be effective for six (6) months following honorable discharge, separation, or release from the armed forces, after which period a license or certificate shall be considered lapsed.

(4) The board ***shall*** [~~may, at its discretion,~~] require continuing education as a condition of license renewal. ***The board, as a condition for renewal of licenses and certificates, shall establish requirements for at least ten (10) annual, or a minimum of thirty (30) per renewal period, clock hours of continuing education, involving face to face interaction with an instructor for the purpose of accomplishing specific learning activities. These contact hours may be received from a social work program accredited by the Council on Social Work Education or from a state division of a national professional organization which regularly approves social work continuing education courses in Kentucky.***

(5) Additionally, two (2) contact hours annually or a minimum total of six (6) contact hours per renewal period shall comply with requirements specified in KRS Chapter 214.

Section 9. KRS 335.150 is amended to read as follows:

(1) The board may hear grievances of persons whose applications for a license have been denied.

(2) The board may deny, revoke, or suspend any license upon proof that the person has willfully or repeatedly violated any of the provisions of KRS 335.010 to 335.160 and 335.990, or has failed to comply with the requirements in KRS 214.610(1) or any rule or regulation promulgated by the board. The course described in KRS 214.610(1) shall be completed annually and may be a part of any ***face-to-face*** continuing education course.

(3) The board shall not suspend, revoke or refuse to renew a license except after a hearing held before the board upon notice to the person charged.

(4) The notice shall be in writing, shall state the nature of the charges, the time and place of the hearing, and shall be served on the person charged by certified mail not less than thirty (30) days prior to the date of the hearing.

(5) The person charged may appear in person or by counsel, may testify and may produce evidence and witnesses on his own behalf, may cross-examine witnesses, and shall be entitled, on application to the board, to the issuance of subpoenas to compel the attendance of witnesses and the production of documentary evidence.

(6) The board, or its duly authorized representative on its behalf, shall have authority to issue subpoenas to compel the attendance of witnesses and the production of documents and may administer oaths. The board may invoke the aid of the Circuit Court for the county in which the hearing is held to enforce compliance with its subpoenas.

(7) A stenographic or mechanical record of the hearing shall be taken, and a transcript shall be preserved by the board.

(8) At all hearings before the board the Attorney General of the Commonwealth, or one of his assistants designated by him shall appear and represent the board.

(9) The decision of the board shall be by majority vote thereof.

(10) A copy of the board's order shall be sent by certified mail to the person charged at his last known address.

(11) The board may grant a rehearing when new and material evidence is offered for its consideration.

(12) Any person aggrieved by a final order of the board may within thirty (30) days of the entry of the order, appeal to the Circuit Court for the county in which he resides. The appeal shall be determined by the court upon the certified record and no new or additional evidence shall be heard or considered by

the court. An appeal may be taken from the judgment of the Circuit Court on any such appeal to the Court of Appeals in accordance with the Rules of Civil Procedure.

SECTION 10. A NEW SECTION OF KRS CHAPTER 335 IS CREATED TO READ AS FOLLOWS:

(1) All persons employed in the practice of social work from August 1, 1992, to February 1, 1994, in agencies previously exempt under KRS Chapter 335 shall be eligible for licensure in the following manner:

(a) The requirement that an applicant for licensure as a social worker pass an examination shall be waived from August 1, 1992, to February 1, 1994. To be licensed without examination during this period, an applicant shall either meet all of the other requirements set forth in KRS 335.090(1), except the requirement to pay the examination fee, or provide evidence of current employment in a social work capacity by an agency previously exempt under this chapter. If qualifying by current employment, the applicant shall meet all other requirements set forth in KRS 335.090(1), except the requirement to pay the examination fee.

(b) The requirement that an applicant for licensure as a certified social worker pass an examination shall be waived from August 1, 1992, to February 1, 1994. To be licensed without examination during this period, an applicant shall either meet all of the other requirements set forth in KRS 335.080(1), except the requirement to pay the examination fee, or provide evidence of current employment in a social work capacity by an agency previously exempt under this chapter. If qualifying by current employment, the applicant shall meet all other requirements set forth in KRS 335.080(1), except the requirement to pay the examination fee.

(c) The requirement that an applicant for a certificate of qualification of independent practice of clinical social work pass an examination shall be waived from August 1, 1992, to February 1, 1994. To be certified without examination during this period, an applicant shall either meet all of the other requirements set forth in KRS 335.100(1), except the requirement to pay the examination fee, or provide evidence of current employment in a social work capacity by an agency previously exempt under this chapter. If qualifying by current employment, the applicant shall meet all other requirements set forth in KRS 335.100(1), except the requirement to pay the examination fee.

(2) Applications for licensure under the provisions of this section shall be received by the board on or before February 1, 1994. No application for licensure under the provisions of this section received after February 1, 1994, shall be considered or approved by the board.

Section 11. KRS 335.160 is amended to read as follows:

When [~~it appears to~~] the board ***has documentation*** that a person is violating any provision of KRS 335.010 to 335.160 and 335.990, the board may institute, in its own name, in a court of competent jurisdiction, a proceeding to restrain and enjoin the violation without regard to whether proceedings have been, or may be instituted under other provisions of KRS 335.010 to 335.160 and 335.990. The board or any member thereof, shall not be required to furnish bond for any costs or filing fees in connection with the proceeding.

The Committee Amendment No. 1 to the Committee Substitute to **HB 528** is as follows:

Amend printed copy of **HB 528/HCS** on page 2, beginning on line 8, by removing the opening bracket and removing the strike throughs from the words "(4) Nothing contained in KRS 335.010 to 335.160 and 335.990 shall require persons employed by the Commonwealth of Kentucky,";

And on page 2, line 10, by inserting after the word "Kentucky," the words "***Department for Social Services,***";

And on page 2, line 10, by placing an opening bracket before the word "the";

And on page 2, line 12, by inserting a closing bracket after the word "government";

And on page 2, lines 12 and 13, by deleting the strike throughs from the words "or applicants for such employment to be licensed.";

And on page 2, line 14, by placing an opening bracket before "(5)";

And on page 8, line 20, by deleting the word "***may***" and removing the brackets and strike throughs around the word "shall".

HB 588, AN ACT relating to the sale of human organs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.165 is amended to read as follows:

(1) "Bank or storage facility" means a facility licensed, accredited, or approved under the laws of any state for storage of human bodies or parts thereof;

(2) "Decedent" means a deceased individual and includes a stillborn infant or fetus;

(3) "Donor" means an individual who makes a gift of all or part of his body;

(4) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state; includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed under state laws;

(5) ***(a) "Human organ" means any of the following bodily parts which are adapted to the performance of a specific function or functions and which can be transplanted to a living person:***

1. Kidney;

2. Liver;

3. Lung;

4. Heart; and

5. Bone marrow;

(b) The term "human organ" does not include fetal or other tissues, hair, bones, blood, arteries, any of the products of birth or conception, teeth, skin, bodily fluids including spinal fluid, plasma, sperm, ovum, ovaries, fetus, placenta, brain, prostate, stomach, colon, gall bladder, pancreas, thyroid, spleen, or any other visceral organs or body parts.

(6) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids and any other portions of a human body;

(7)[~~(6)~~] "Person" means an individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity;

(8)[~~(7)~~] "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state;

(9)[~~(8)~~] "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311.165 TO 311.247 IS CREATED TO READ AS FOLLOWS:

(1) No person shall sell or make a charge for any human organ.

(2) No person shall offer remuneration for a human organ.

(3) No person may broker for the sale or transfer of a human organ.

(4) No person may charge a fee associated with the transplantation of a human organ in excess of the direct and indirect costs of procuring, preserving, distributing, or transplanting the human organ.

(5) Nothing in this section shall be construed in any way to relate to the use, sale, distribution, procurement, preservation, distribution, experimentation, research, drug manufacture, or other treatment of any human or nonhuman part other than human organs.

Section 3. KRS 311.215 is amended to read as follows:

(1) If the will, card, or other document or executed copy thereof, has been delivered to a specified donee, the donor may amend or revoke the gift by:

(a) The execution and delivery to the donee of a signed statement, or

(b) An oral statement made in the presence of two (2) persons and communicated to the donee, or

(c) A statement during a terminal illness or injury addressed to an attending physician and communicated to the donee, or

(d) A signed card or document found on his person or in his effects.

(2) Any document of gift which has not been delivered to the donee may be revoked by the donor in the manner set out in subsection (1) of this section, or by destruction, cancellation, or mutilation of the document and all executed copies thereof.

(3) Any gift made by a will may also be amended or revoked in the manner provided for amendment or revocation of wills, or as provided in subsection (1) of this section.

(4) Any gift of a human organ identified by a will, card, or other document or executed copy thereof which stipulates remuneration of any type in return for the anatomical gift shall be null and void.

Section 4. KRS 311.225 is amended to read as follows:

(1) The donee may accept or reject the gift, ***but shall not offer remuneration for the gift***. If the donee accepts a gift of the entire body, he may, subject to the terms of the gift, authorize embalming and the use of the body in funeral services. If the gift is of a part of the body, the donee, upon the death of the donor and prior to embalming, shall cause the part to be removed without unnecessary mutilation. After removal of the part, custody of the remainder of the body vests in the surviving spouse, next of kin, or other persons under obligation to dispose of the body.

(2) The time of death shall be determined by a physician who tends the donor at his death, or, if none, the physician who certifies the death. The physician shall not participate in the procedures for removing or transplanting a part.

(3) A person who acts in good faith in accord with the terms of KRS 311.165 to 311.235 or with the anatomical gift laws of another state is not liable for damages in any civil action or subject to prosecution in any criminal proceeding for his act.

(4) The provisions of KRS 311.165 to 311.235 are subject to the laws of this state prescribing powers and duties with respect to autopsies.

Section 5. KRS 311.241 is amended to read as follows:

(1) Each hospital licensed under the provisions of KRS Chapter 216B shall, as a condition of licensure, establish an organ procurement for transplant protocol, in consultation with a federally certified organ procurement organization, which encourages organ donation and identifies potential organ donors.

(2) When an individual has died or has been identified by a medical hospital staff member as having a terminal condition and is further identified as a potential organ donor and meets the criteria set forth in the hospital's organ procurement for transplant protocol, the hospital administrator or his official designee shall then notify the federally certified organ procurement organization of the potential availability of the organ. The notification of the federally certified organ procurement organization as to the identity of a potential organ donor shall be documented in such patient's medical record. Any identified contraindication to organ donation shall be documented in the patient's medical record.

(3) Any hospital licensed under the provisions of KRS Chapter 216B which performs any human organ transplant shall report to the Cabinet for Human Resources, Office of the Inspector General, any information relating to the possible sale, purchase, or brokering of a human organ.

Section 6. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be fined fifty dollars ($50) for the first offense and one hundred dollars ($100) for each subsequent offense.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be fined not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or imprisoned in the county jail for not less than three (3) months nor more than twelve (12) months, or both so fined and imprisoned. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 shall be punishable by a fine of not less than two hundred fifty dollars ($250) nor more than five thousand dollars ($5,000) or by imprisonment for not less than one (1) month nor more than twelve (12) months, or both. Each subsequent violation of KRS 311.560 shall constitute a felony and be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years, or both.

(5) Each violation of KRS 311.590 shall constitute a felony and shall be punishable by a fine of not less than one thousand dollars ($1,000) nor more than ten thousand dollars ($10,000) or by imprisonment in a penitentiary for not less than one (1) nor more than three (3) years. Conviction, under this subsection, of a holder of a license or permit, shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Human Resources, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be punishable by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be punishable by a fine of not less than fifty dollars ($50) nor more than three hundred dollars ($300) or by imprisonment for not more than thirty (30) days or both, and, for each subsequent offense, by a fine of not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be punishable by a fine of not more than one hundred dollars ($100) or by imprisonment for not more than thirty (30) days, or both, and, for each subsequent offense, by a fine of not less than one hundred dollars ($100) nor more than two hundred fifty dollars ($250) or by imprisonment for not more than ninety (90) days or both.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.726 shall be guilty of a Class A misdemeanor.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be imprisoned in the penitentiary for a term of not less than ten (10) nor more than twenty (20) years.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be imprisoned for a term not to exceed two (2) years or fined not more than five thousand dollars ($5,000), or both.

(18) A person convicted of violating KRS 311.780 shall be imprisoned in the penitentiary for not less than two (2) nor more than twenty-one (21) years.

(19) Any person who violates KRS 311.810 shall be imprisoned in the county jail for a term not to exceed twelve (12) months or fined a sum not to exceed one thousand dollars ($1,000), or both.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each failure to so report as described in KRS 311.606.

(21) Any person who violates KRS 311.652 or any rule or regulation of the Board of Medical Licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a misdemeanor and on conviction shall be punished by a fine of not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a violation and on conviction shall be subject to a penalty up to one thousand dollars ($1,000). Each day a violation is continued after the first conviction shall be a separate offense.

(27) Any person who sells or makes a charge for any human organ shall be guilty of a Class D felony.

(28) Any person who offers remuneration for any human organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(29) Any person brokering the sale or transfer of any human organ shall be guilty of a Class C felony.

(30) Any person charging a fee associated with the transplantation of a human organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the human organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000)

(31) Any hospital performing human organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a human organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Section 7. KRS 194.030 is amended to read as follows:

The Cabinet for Human Resources shall consist of the following major organizational units which are hereby created:

(1) Office of the Secretary;

(2) The Office for Policy and Budget. The Office for Policy and Budget shall provide the secretary with professional support in planning, budgeting, and policy analysis, including the appraisal of needs, the formulation of policy and the evaluation of programs. The Office for Policy and Budget shall be headed by an administrator who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050;

(3) The Office of the Counsel. The Office of the Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general in accordance with the provisions of KRS 15.105;

(4) The Office of the Ombudsman. The Office of the Ombudsman shall provide a review of citizen complaints on services of the Cabinet for Human Resources when such complaints cannot be resolved through normal administrative remedies. The Office of the Ombudsman shall be headed by an ombudsman who shall be appointed by the Governor with the advice of the secretary. The ombudsman shall be directly responsible to the secretary;

(5) The Office of Administrative Services. The Office of Administrative Services shall be responsible for providing administrative support services within the Cabinet for Human Resources. All fiscal, facility and information management functions of the cabinet shall be vested in the office of administrative services. The Office of Administrative Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the office of administrative services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(6) The Department for Social Insurance. The Department for Social Insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The Department for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Department for Social Insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for social insurance shall exercise authority over the Department for Social Insurance under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(7) The Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for medicaid services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(8) The Department for Health Services. The Department for Health Services shall develop and operate all programs of the cabinet that provide health services and all programs for the prevention, detection, care, and treatment of physical disability, illness, and disease. The Department for Health Services shall be headed by a commissioner for health services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for health services shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for health services shall exercise authority over the department for health services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(9) The Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall provide services for all programs for the prevention, detection and treatment of mental disability, illness and disease and administer all programs for the assistance of community treatment and prevention of such disability, illness and disease. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary for human resources with the approval of the Governor in accordance with KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary for human resources and shall only fulfill such responsibilities as delegated by the secretary;

(10) The Department for Social Services. The Department for Social Services shall develop and operate all social service programs of the cabinet. The Department for Social Services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the Department for Social Services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(11) The Department for Employment Services. The department for Employment Services shall develop and operate all employment development and placement programs including all job recruitment and business liaison functions, employability development and training programs, and all job counseling and job placement programs of the cabinet. In addition, the department shall develop and operate all programs relating to unemployment insurance laws of the Commonwealth including responsibilities relating to hearing and judging unemployment insurance benefit appeals. The department for employment services shall be headed by a commissioner for employment services who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The commissioner for employment services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for employment services shall exercise authority over the department for employment services under the direction of the secretary and shall fulfill only such responsibilities as delegated by the secretary;

(12) The Office of the Inspector General. The Office of the Inspector General shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted;

(b) Such licensing and regulatory functions as the secretary may delegate; [~~and~~]

(c) ***Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.247; and***

(d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary;

(13) The Commission for Handicapped Children. The duties, responsibilities and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of handicapped children, and to the extent that funds are available, shall provide such services and facilities for handicapped children as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate such administrative regulations pursuant to KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities and authority of the commission for handicapped children shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor pursuant to KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for such removal. The executive director shall report directly to the Commission for Handicapped Children and serve as the commission's secretary; and

(14) The Commission for Health Economics Control in Kentucky. The duties, responsibilities and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS 216B.010 to 216B.990, shall be performed by the commission. The commission may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement and administer its responsibilities.

HB 740, AN ACT relating to mental health services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall require accommodations and services for persons who are deaf or hard of hearing in order to provide access to mental health, mental retardation, developmental disability, and substance abuse services funded through or licensed by the cabinet. These accommodations shall include but not be limited to:

(a) Appropriate mental health assessments for deaf or hard of hearing clients;

(b) Provision of interpreter services; and

(c) Education and training for staff who coordinate or provide mental health services to persons who are deaf or hard of hearing.

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard of hearing.

(a) At least seven (7) members shall be deaf or hard of hearing, three (3) of whom shall be consumers. The remaining four (4) deaf or hard of hearing members shall represent one (1) of each of the following organizations:

(1) The Kentucky Association of the Deaf;

(2) The A.G. Bell Association;

(3) The Kentucky School for the Deaf; and

(4) Self Help for the Hard of Hearing.

(b) The remaining membership of the advisory committee shall be comprised of two (2) members representing the Kentucky Commission on the Deaf and Hearing Impaired; and one (1) member representing each of the following organizations, agencies or categories:

(1) The Cabinet for Human Resources, Department for Mental Health and Mental Retardation Services;

(2) The Workforce Development Cabinet, Department of Vocational Rehabilitation;

(3) The Cabinet for Human Resources, Department for Social Services, Aging Services division;

(4) A family member of a deaf or hard of hearing consumer;

(5) A representative of a Regional Mental Health/Mental Retardation Board;

(6) The Kentucky Registry of Interpreters for the Deaf; and

(7) A representative of the Department of Education who is involved specifically in mainstreamed education for children who are deaf or hard of hearing.

(2) Consumer members shall serve at large and shall be appointed by the secretary from a list of names submitted by the Kentucky Commission on the Deaf and Hard of Hearing. Of the members defined in Section (1)(a) of this section three (3) shall be appointed for a one (1) year term, two (2) shall be appointed for a two (2) year term, and two (2) shall be appointed for a three (3) year term; thereafter, they shall be appointed for a three (3) year term. The members defined under Section (1)(b) of this section shall be ex-officio voting members who serve with no fixed term of office, except for the two (2) members representing the Kentucky Commission on the Deaf and Hearing Impaired, who shall be nonvoting members and who shall serve three (3) year terms.

(3) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(4) The advisory committee shall meet quarterly at a location determined by the committee chair.

(5) The advisory committee shall prepare a biennial report which:

(a) Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard of hearing persons;

(b) Reports the number of deaf or hard of hearing persons served;

(c) Identifies additional service needs for the deaf and hard of hearing; and

(d) Identifies a plan to address unmet service needs. The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd numbered year.

Section 3. KRS 210.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(2) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association.

(3) "Chronic" means that clinically significant symptoms of mental illness have persisted in the individual for a continuous period of at least two (2) years, or that the individual has been hospitalized for mental illness more than once in the last two (2) years, and that the individual is presently significantly impaired in his ability to function socially or occupationally, or both.

(4) "Cabinet" means the Cabinet for Human Resources.

(5) "Deaf or hard of hearing" means a hearing impaired person who cannot hear and understand speech clearly through the ear alone, irrespective of the use of any hearing aid device.

(6) "Secretary" means the Secretary of the Cabinet for Human Resources.

The Committee Substitute to **HB 740** is as follows:

HB 740, AN ACT relating to mental health services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

(a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

1. The Kentucky Association of the Deaf;

2. The A.G. Bell Association;

3. The Kentucky School for the Deaf Alumni Association; and

4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hearing Impaired.

(b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary from a list of nominees accepted from any source.

(c) The head of each of the following entities shall appoint one (1) member to the advisory committee:

1. The Cabinet for Human Resources, Department for Mental Health and Mental Retardation Services;

2. The Workforce Development Cabinet, Department of Vocational Rehabilitation;

3. The Cabinet for Human Resources, Department for Social Services, Division for Aging Services;

4. The Education and Humanities Cabinet, Commission on the Deaf and Hearing Impaired;

5. The Kentucky Registry of Interpreters for the Deaf; and

6. A Kentucky School for the Deaf staff person involved in education.

(d) The remaining member shall be a representative of a regional mental health/mental retardation board, appointed by the commissioner of the Department for Mental Health and Mental Retardation Services from a list composed of two (2) names submitted by each regional mental health/mental retardation board.

(2) Of the members defined in subsections (1)(a) and (b) of this section, three (3) shall be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall be appointed for three (3) year terms. The members defined under subsections (1)(c) and (d) of this section shall serve with no fixed term of office.

(3) The members defined under subsections (1)(a) and (b) of this section shall serve without compensation but shall be reimbursed for actual and necessary expenses; the members defined under subsections (1)(c) and (d) shall serve without compensation or reimbursement of any kind.

(4) The Department for Mental Health and Mental Retardation Services shall make available personnel to serve as staff to the advisory committee.

(5) The advisory committee shall meet quarterly at a location determined by the committee chair.

(6) (a) The advisory committee shall prepare a biennial report which:

1. Describes the accommodations and the mental health, mental retardation, development disability, and substance abuse services made accessible to deaf and hard-of-hearing persons;

2. Reports the number of deaf or hard-of-hearing persons served;

3. Identifies additional service needs for the deaf and hard-of-hearing; and

4. Identifies a plan to address unmet service needs.

(b) The report shall be submitted to the secretary, the commissioner of the Department for Mental Health and Mental Retardation Services, and the Interim Joint Committee on Health and Welfare by July 1 of every odd-numbered year.

Section 2. KRS 210.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(2) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association.

(3) "Chronic" means that clinically significant symptoms of mental illness have persisted in the individual for a continuous period of at least two (2) years, or that the individual has been hospitalized for mental illness more than once in the last two (2) years, and that the individual is presently significantly impaired in his ability to function socially or occupationally, or both.

(4) "Cabinet" means the Cabinet for Human Resources.

(5) "Deaf or hard-of-hearing" means having a hearing impairment so that a person cannot hear and understand speech clearly through the ear alone, irrespective of the use of any hearing aid device.

(6) "Secretary" means the secretary of the Cabinet for Human Resources.

HB 799, AN ACT relating to children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly that the Commonwealth of Kentucky will make a major investment in the future by making a significant commitment of resources to address the comprehensive needs of its children.

(2) It is the intent of the General Assembly to commit the resources of the Commonwealth of Kentucky to assure that each child enjoys certain rights including, but not limited to the following:

(a) Protection from abuse, neglect, and exploitation;

(b) A permanent and stable home;

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity;

(d) Adequate nutrition, shelter, and clothing;

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location;

(f) Equal opportunity and access to quality and effective education, which shall meet the individual needs of each child, and to recreation, and other community resources to develop individual abilities;

(g) Access to preventive health and social services; and

(h) An independent, trained advocate, when intervention is necessary and a skilled guardian or caretaker in a safe environment when alternative placement is necessary.

SECTION 2. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

Section 1 of this Act may be cited as the Kentucky Children's Bill of Rights.

The Committee on Tourism Development and Energy reported **HB 919** and **SB 341**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 919, AN ACT relating to fish and wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.170 is amended to read as follows:

(1) Except as provided in the following subsections of this section, and subject to administrative regulations adopted under this chapter, no person, resident or nonresident, shall do any act authorized by any kind of license or permit, or assist in any way any person in doing any act provided for in this chapter with respect to wildlife unless he holds the kind of license or permit, resident or nonresident, that authorizes the act. It shall be the specific purpose of this chapter to prohibit the taking or pursuing of any wildlife, protected or unprotected, or the fishing in any stream or body of water whether public or private, without first procuring the license provided for ***in KRS 150.175*** [~~herein~~], except to the extent as may be otherwise provided in this section.

(2) A person under sixteen (16) years of age may, without a sport fishing license, take fish by angling, or take minnows by the use of a minnow seine, minnow trap, or dip net.

(3) The resident owner of farmlands, his spouse, or dependent children, shall, without procuring any sport hunting or sport fishing licenses, have the right to take fish or hunt during the open season, except trapping, on the farmlands of which they are bona fide owners. Tenants or their dependent children, residing upon these farmlands, shall have the same privilege.

(4) Residents or nonresidents ***observing,*** [~~attending~~] and participating in any field trial as authorized by the department may ***observe*** [~~attend~~] and participate without obtaining a hunting license so long as game is not taken.

(5) Any resident who is sixty-five (65) years of age or older may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry upon his person an affidavit stating the year of his birth and place of residence.

(6) Any resident serviceman on furlough of more than three (3) days in this state may, without any Kentucky sport hunting or sport fishing licenses, do any act authorized by the licenses, but while so doing he shall carry on his person proper identification and papers showing his furlough status.

(7) Any disabled American veteran who is at least fifty percent (50%) disabled as a result of a service-connected disability who is residing in Kentucky may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses, but while doing so shall carry the card provided for by this subsection in order to be exempt from hunting or fishing license requirements. A disabled veteran shall obtain a copy of his disability rating from the Veterans Administration. He shall forward the copy to the Director of the Division of Law Enforcement of the Department of Fish and Wildlife Resources. The division shall mail a card certifying his disability and exemption from license requirements, and shall retain a copy of the certification.

(8) Any resident who is declared totally and permanently disabled by the federal Social Security Administration or by the state Workers' Compensation Board may, without any sport hunting or sport fishing licenses, do any act authorized by the licenses.

(9) Resident landowners, their spouses, or dependent children who kill or trap on their lands any wildlife causing damage to the lands or any personal property situated thereon[~~,~~] shall not be required to have a hunting or trapping license. Tenants or their dependent children residing upon the lands shall also have the same privilege. Upon destruction of any wildlife by the above-specified individuals, the act shall be reported to the department or the resident conservation officer for the proper disposition of the carcass.

(10) If a reciprocal agreement is entered into between the commissioner, with the approval of the commission, and ratified by the General Assembly and the similar authority of Missouri, Tennessee, Virginia, West Virginia, Indiana, Ohio, or Illinois, persons holding a resident or nonresident fishing or a resident or nonresident statewide hunting license issued in these states shall be permitted to perform the acts authorized by the license upon certain contiguous waters and land areas adjacent to the common boundaries of the above-mentioned states and the State of Kentucky. A resident of the State of Kentucky shall purchase a proper Kentucky license to conform with the reciprocal agreement.

Section 2. KRS 150.175 is amended to read as follows:

(1) The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under the licenses and tags, subject to the other provisions of this chapter and subject to regulations adopted under this chapter, shall be as follows:

(a) Statewide resident sport fishing license which authorizes the holder to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations in this chapter and such additional limitations as the department may from time to time prescribe. This license shall not authorize the holder to sell fish;

(b) A short term sport fishing license which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed regulations. This license shall not authorize the holder to sell fish;

(c) A resident commercial fishing license and a nonresident commercial fishing license, which authorize a holder to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by regulation. The license shall also authorize the holder to sell rough fishes, other than those protected by regulation;

(d) A commercial fishing gear tag which shall be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use, including commercial seines, gill nets or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license;

(e) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder to sell bait and live fish as may be prescribed by regulation;

(f) Musseling licenses, resident and nonresident, which authorize the holder thereof to take mussels for commercial purposes as may be prescribed by regulation;

(g) A statewide resident hunting license, which authorizes the holder to take or pursue wild animals, wild birds, frogs and turtles with gun, bow and arrow, dog or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and regulations of the department;

(h) A junior statewide hunting license, which may be issued [~~only~~] to a ***person*** [~~resident of this state~~], before he has reached his sixteenth birthday, and which authorizes the holder to exercise all the privileges authorized by a statewide hunting license. No junior hunting license shall be issued without the written permission of parent, guardian or person having custody of the person under sixteen (16) years of age;

(i) Trapping licenses, resident and nonresident, which authorize the holder to take wild animals by trapping upon his own lands or upon the lands of another person, if the holder of the license shall have first obtained a written consent as provided in KRS ***150.092*** [~~150.410~~];

(j) ***Taxidermist licenses*** [~~A taxidermist's license~~], ***commercial and noncommercial,*** which ***authorize*** [~~authorizes~~] the holder to engage in the ***act*** [~~business~~] of preparing, stuffing and mounting the skins of wildlife;

(k) A commercial guide's license, which authorizes the holder to guide hunting and fishing parties according to the provisions of the laws and regulations of the department;

(l) Fur buyer's licenses, resident and nonresident, which authorize the holder to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for the license shall state the number of premises to be used and shall display at each a copy of same as furnished by the department, except that the commissioner may limit the number of copies furnished and may revoke license for violation;

(m) A fur processor's license, which may be issued only to a resident, a partnership, firm or corporation of this state and which authorizes the holder to buy raw furs when in legal possession for processing, manufacture or retention in cold storage or for resale;

(n) A nonresident sport fishing license which authorizes the holder to perform any act authorized by a resident statewide sport fishing license. This license shall not authorize the holder to sell fish;

(o) A nonresident annual hunting license which authorizes the holder to perform any act authorized by a resident statewide hunting license;

(p) ***Shoot-to-retrieve field trial permits, four (4) day and single day, which authorize a permit holder to conduct a shoot-to-retrieve field trial on private or government-owned lands. With a four (4) day permit, all participants, whether residents or nonresidents, shall not be required to possess any other license to participate in the permitted field trial, and the permit shall expire four (4) days after the date on which the field trial began. With the single day permit, the permit is valid for one (1) day and all participants shall have a valid resident or nonresident annual Kentucky hunting license. A permit is not required to conduct a shoot-to-retrieve field trial on a licensed shooting preserve, however all participants that take or attempt to take game shall have in their possession a resident or nonresident annual Kentucky hunting license, or a nonresident shooting preserve license.***

(q) A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license shall be good only for the preserve for which it was issued and shall remain in effect only for one (1) year. These licenses shall be issued in ink by the preserve manager, and he shall ***ensure*** [~~insure~~] that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, may establish and regulate hunting preserves, either private or commercial;

(r)[~~(q)~~] A big game permit and a junior big game permit, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorize the holder to take or pursue deer, bear or wild turkey, in any designated open area of this state, during the open season and according to the provisions of the laws and regulations governing the hunting;

(s)[~~(r)~~] A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;

(t)[~~(s)~~] A trout stamp, which in combination with a valid statewide fishing license, authorizes the holder to take trout by angling or as may be prescribed by regulation;

(u)[~~(t)~~] A commercial waterfowl permit, which authorizes the holder to establish and operate a commercial waterfowl hunting preserve;

(v)[~~(u)~~] A short term hunting license which may be issued only to a nonresident and which authorizes the holder to perform all acts authorized by a statewide hunting license, except for hunting big game species for which an annual nonresident hunting license shall be required, and according to the provisions of the laws and regulations of the department;

(w)[~~(v)~~] A joint statewide resident sport fishing license issued to a husband and wife which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two (2) statewide resident sport fishing licenses; [~~and~~]

(x)[~~(w)~~] A Kentucky waterfowl stamp, which in combination with a valid statewide hunting license and a valid migratory bird hunting stamp, authorizes the holder to take or pursue migratory waterfowl***; and***

(y) A pay lake license which authorizes the holder to operate privately owned impounded waters for fishing purposes for which a fee is charged.

Section 3. KRS 150.180 is amended to read as follows:

(1) Except as otherwise provided ***for*** in this [~~section or elsewhere in this~~] chapter, and subject to regulations adopted under this chapter, no person, for himself or as the agent or employee of another shall buy, or sell, or attempt to buy, or sell, barter, exchange, or trade, or have in possession for the purpose of selling, bartering, or trading any protected wildlife or part thereof, raw fur or processed wildlife, no matter where or when caught or killed, whether caught or killed in this state or in any other state or other country.

(2) Mussels and fishes, other than sport fishes as designated by departmental regulations, and all fishes, regardless of species, raised by licensed propagation permittees may be bought, sold and transported, if in legal possession.

(3) Raw furs, if in legal possession, may be sold, transported or shipped, by a licensed trapper or licensed hunter to a licensed fur buyer (resident or nonresident), and by a licensed fur buyer to a licensed fur processor or to another fur buyer if in legal possession. Raw furs may be held in possession by a trapper or hunter twenty (20) days and a fur buyer for thirty (30) days following the close of the season. A fur processor may hold raw furs or sell to another licensed fur processor at any time.

(4) Subject to regulations adopted under this chapter, a person who has been issued a license under this chapter and who has the license on his person may transport anywhere as a part of his personal baggage any protected wildlife legally taken by him under such license, not in excess of the number that the law or regulation permits him to have in possession at any one (1) time.

(5) A person who has legally taken any protected wildlife in another state and who has in his possession the license which authorizes such taking may, if the same be dead, transport the same in this state, as part of his personal baggage at any time during the open season for the particular species in the state in which taken or within ten (10) days after the close of such season. Any person may ship dead game or dead fish so taken subject to the provisions of the laws of the state in which the same was taken and the laws and regulations of the United States relating thereto.

(6) No person shall import or transport into the State of Kentucky or receive shipment in the state from without the state, any live ***fish or*** wildlife without first procuring from the department a written ***fish transportation permit or wildlife transportation*** permit [~~to do so~~]. If it is determined upon inspection that such ***fish or*** wildlife would not constitute a menace to the state and ***are*** [~~is~~] free from disease and other undesirable physical characteristics, the commissioner shall issue [~~such~~] a permit ***for a fee to be determined by the Fish and Wildlife Commission by administrative regulation, pursuant to KRS Chapter 13A. A fish transportation permit shall be valid for one (1) year from the date of issuance, and a wildlife transportation permit shall be valid for specific dates as indicated on the permit*** [~~free of charge~~].

(7) No person may at any time stock any species of fish secured from any source into the public waters of the Commonwealth without first securing a permit from the commissioner.

(8) This section shall not in any way interfere with the transportation of any ***fish or*** wildlife by [~~the~~] authorized personnel of the department.

(9) Federal and state regulations shall govern the transportation of all migratory wild birds.

Section 4. KRS 150.275 is amended to read as follows:

(1) The commissioner may issue to any qualified person a permit to take and transport wildlife at any time for ***commercial nuisance wildlife control,*** scientific, or educational purposes; such permits shall be valid at the discretion of the commissioner and shall show upon their face the period of their validity.

(2) The Fish and Wildlife Commission may set fees, by administrative regulation pursuant to KRS Chapter 13A, for the issuance of permits authorized by subsection (1) of this section.

Section 5. KRS 150.280 is amended to read as follows:

No person shall propagate or hold protected wildlife without obtaining a permit to do so from the department within ten (10) days after the wildlife is acquired. The commissioner shall make and publish regulations governing all such activity. The application for ***a*** [~~such~~] permit shall be in writing, addressed to the commissioner, signed by the applicant, and shall describe the land or waters owned or leased to be used and shall contain such other facts as may be required by the commissioner. The commissioner may issue a permit, which shall continue in force for ***a term fixed by the commissioner,*** [~~one (1) year or any part thereof~~] unless sooner revoked by the commissioner for cause, upon payment of a permit fee and fees for tagging which shall be fixed by the commissioner. A fish and game club which enters into an agreement with the department to operate such a farm, in cooperation with the department, for the purpose of carrying out the department's program may, with the approval of the commissioner, be issued a permit without the payment of any fee. Any permit issued pursuant to this section may be revoked by the commissioner at any time for a violation by the holder thereof of any of the laws of Kentucky or of any regulation of the department.

Section 6. KRS 150.399 is amended to read as follows:

Any trap set, used or maintained in violation of the provisions of KRS 150.400 or 150.410 shall be subject to confiscation as contraband under the provisions of KRS 150.120, except that any trap set, used or maintained without the tag required by subsection ***(1)*** [~~(2)~~] of KRS 150.410 is hereby declared contraband and shall be so treated without any order of court so declaring.

Section 7. KRS 150.410 is amended to read as follows:

(1) No person shall set, use or maintain a trap for the purpose of taking wildlife unless there is attached thereto a metal tag giving the name and address of the person setting, using or maintaining ***the*** trap. [~~The commission may furnish a tag, at cost, to applicants therefor.~~]

(2) Each person who sets a trap for the purpose of taking wildlife shall visit the same at least once every twenty-four (24) hours and remove any wildlife found therein.

(3) No person shall set a trap in such manner as unreasonably to endanger the life or safety of any domestic animal.

Section 8. KRS 150.450 is amended to read as follows:

(1) The department shall promulgate reasonable regulations governing the taking of minnows and crayfish from the waters of the Commonwealth. The regulations shall prescribe the type of gear to be used, and shall prescribe the types of minnows and crayfish that may be taken and the purposes for which they may be used.

(2) Any person possessing a commercial fishing license may take rough fishes, by the use of commercial fishing gear, the types and specifications of which shall be prescribed by the department by regulation.

(3) No person shall operate [~~or have in possession~~] any commercial fishing gear as prescribed by regulation unless he has procured a commercial fishing license and a tag for the use [~~or possession~~] of each piece of commercial fishing gear and has complied with the provisions of this chapter or the regulations of the department. The tags shall be affixed to and displayed on each piece of commercial fishing gear ***in use*** [~~at all times~~]. This section shall not be construed to require retail or wholesale dealers, or manufacturers to obtain licenses and tags for commercial fishing gear in their possession.

Section 9. KRS 150.660 is amended to read as follows:

(1) Any person may establish a pay lake subject to the approval of the commissioner of the Department of Fish and Wildlife Resources, who shall have the authority to approve or reject the establishment of pay lakes and issue to the owners ***or lessees*** of [~~such~~] lakes a license [~~or permit~~] for their operation. ***All pay lakes shall be stocked at least twice per calendar year with not less than five hundred pounds (500 lbs.) of adult fish per surface acre of water.***

(2) When a pay lake is licensed by the department, the commissioner shall issue to the ***licensee*** [~~owner~~], consecutively numbered permits to be issued***, without cost,*** to pay lake patrons. ***The permits shall*** [~~These licenses shall be issued without cost to the patron who desires to fish in said pay lake and are good~~] only ***be valid for fishing*** [~~for~~] any licensed pay lake within the state and shall be valid for one (1) year beginning January 1. [~~These licenses shall be issued by the pay lake owner or operator at the headquarters on the property where the pay lake is located, and it becomes his responsibility to see that each fisherman is properly licensed before fishing. When the fisherman owns either a statewide or nonresident fishing license for the current year, the special permit shall not be required. If a fisherman owns a ten (10) day license for the current year and uses it at a pay lake on the dates indicated on the license, no special permit shall be required.~~]

(3) ***No person, except those exempted elsewhere in this chapter, shall fish in a licensed pay lake without possessing a valid special pay lake permit or a valid statewide fishing license. No owner or operator of a licensed pay lake shall allow any patron to fish who is not properly licensed or permitted*** [~~Any pay lake owner or operator that fails to comply with the laws or regulations governing the operation of a pay lake may have his operator's license revoked by the commissioner~~].

(4) Any ***pay lake licensee that fails to comply with the laws or regulations governing the operation of a pay lake may have his operator's license revoked by the commissioner*** [~~person operating a commercial fishing pond or lake that does not comply with the provisions of KRS 150.660 and 150.670, must require that his patrons have a regular resident, nonresident, or ten (10) day fishing license~~].

Section 10. KRS 150.990 is amended to read as follows:

(1) Each bird, fish, or animal taken, possessed, bought, sold, or transported and each device used or possessed contrary to the provisions of this chapter or any regulation adopted by the commission thereunder shall constitute a separate offense. The penalties prescribed in this section shall be for each offense.

(2) Any person who violates any of the provisions of this chapter or any regulations adopted by the commission thereunder may, in addition to the penalties provided in subsection (3), (4), (5), (6), (7) and (8) of this section, forfeit his license, or if that person is license exempt, may forfeit the privilege to perform the acts authorized by the license, and shall not be permitted to purchase another license or exercise the privileges granted by a license during the same license year. No fines, penalty, or judgment assessed or rendered under this chapter shall be suspended, reduced, or remitted otherwise than expressly provided by law. Any person who violates any regulation which has been or may be adopted by the commission under any provisions of this chapter or which is adopted to supplement, explain, carry out, or limit any provision of this chapter, shall be subject to the same penalty as is provided for the violation of any provisions of this chapter under which the regulation is adopted or which the regulation supplements, explains, carries out, or limits.

(3) Any person who violates any of the provisions of KRS 150.120, 150.170, 150.280, 150.320, 150.355, 150.362, 150.400, 150.410, 150.415, 150.416, 150.603, subsections (1) or (2) of KRS 150.092, subsection (1) of KRS 150.235 [~~and 150.670~~], subsection (2) of KRS 150.330 or 150.470, or any of the provisions of this chapter or any regulation adopted by the commission for which no definite fine or imprisonment is fixed shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(4) Any person who violates any of the provisions of KRS [~~150.180,~~] 150.290, 150.300, 150.340, 150.360, 150.445, 150.485, [~~150.510,~~] 150.600, 150.630, 150.660, subsection (1) of KRS 150.450 or 150.470, subsection ***(3)***[~~(2)~~] of KRS ***150.660*** [~~150.670~~] shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200) or be imprisoned for not more than six (6) months, or both. Also, any person violating the provisions of KRS 150.300 shall be assessed treble damages as provided in KRS 150.690 or 150.700.

(5) Any person who violates any of the provisions of KRS 150.190, 150.411, 150.412, or 150.417 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(6) Any person who violates any of the provisions of KRS 150.183, 150.305, 150.365, 150.370, subsection (1) of KRS 150.330, or subsections (2), (3), or (4) of KRS 150.235 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisonment for not more than six (6) months or both.

(7) Any person who violates any of the provisions of KRS 150.460 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not more than six (6) months, or both, and in addition to these penalties shall be liable to the department in an amount reasonably necessary to restock the fish or replenish other wildlife which has been killed or destroyed.

(8) ***Any person who violates the provisions of KRS 150.180, 150.510, 150.520, 150.525 or administrative regulations issued thereunder shall, for the first offense be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1000); and shall for a second offense be fined not less than five hundred dollars ($500) nor more than one thousand five hundred dollars ($1500); and for any subsequent offense, be fined two thousand dollars ($2000).***

(9) Any person who violates the provisions of KRS 150.520 or administrative regulations issued thereunder shall, if the violation relates to methods of taking mussels, for a first offense be imprisoned in the county jail for no more than thirty (30) days; for a second offense be imprisoned in the county jail for no more than six (6) months; and for any subsequent offense be imprisoned in the county jail for no more than one (1) year. The penalties for violation of subsection (9) shall be in addition to the penalties for violation of subsection (8).

(10) Any person who violates any of the provisions of KRS 150.4111, [~~150.520, 150.525,~~] 150.640, or subsections (2) or (3) of KRS 150.450 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000).

(11)[~~(9)~~] Any person who violates any of the provisions of KRS 150.390, or subsection (3) of KRS 150.092 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for not less than thirty (30) days nor more than one (1) year or both. In addition to the penalties prescribed above, he shall forfeit his license or, if license exempt, the privilege to perform the acts authorized by the license for a period of one (1) to three (3) years and shall be liable to the department in an amount reasonably necessary to replace any deer, wild turkey, or bear taken in violation of KRS 150.390 and for violations of subsection (3) of KRS 150.092 shall be liable to the landowner or occupant for reasonable compensation for damages.

(12)[~~(10)~~] Any person who violates any of the provisions of KRS 150.090 other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

(13)[~~(11)~~] Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter or the administrative regulations issued thereunder shall be subject to the penalties specified for such offense under KRS Chapter 507 or 508, as appropriate.

(14)[~~(12)~~] A person shall be guilty of a Class B misdemeanor upon the first violation of KRS 150.710. A subsequent violation shall be a Class A misdemeanor.

Section 11. The following KRS sections are repealed:

150.650 "Pay lakes" defined.

150.670 Pay lake permits or regular fishing license required — Exceptions.

SB 341, AN ACT relating to utilities.

WHEREAS, it is hereby declared the policy of the General Assembly to foster and encourage the continued use of Kentucky coal by electric utilities serving the Commonwealth; and

WHEREAS, electric utilities should have incentive to use Kentucky coal in deciding how to best achieve and maintain compliance with the federal Clean Air Act as amended and those environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal; and

WHEREAS, recovery of the reasonable costs of capital expenditures and operating expenses for compliance with these environmental requirements should be allowed on the same basis as the recovery of fuel costs;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, effective January 1, 1993, a utility shall be entitled to the current recovery of its costs of complying with the federal Clean Air Act as amended and those federal, state, or local environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal in accordance with the utility's compliance plan as designated in subsection (2) of this section. These costs shall include a reasonable return on construction and other capital expenditures and reasonable operating expenses for any plant, equipment, property, facility, or other action to be used to comply with applicable environmental requirements set forth in this section. Operating expenses include all costs of operating and maintaining environmental facilities, income taxes, property taxes, other applicable taxes, and depreciation expenses as these expenses relate to compliance with the environmental requirements set forth in this section.

(2) Recovery of costs pursuant to subsection (1) of this section that are not already included in existing rates shall be by environmental surcharge to existing rates imposed as a positive or negative adjustment to customer bills in the second month following the month in which costs are incurred. Each utility, before initially imposing an environmental surcharge pursuant to this subsection, shall thirty (30) days in advance file a notice of intent to file said plan and subsequently submit to the commission a plan, including any application required by KRS 278.020(1), for complying with the applicable environmental requirements set forth in subsection (1) of this section. The plan shall include the utility's testimony concerning a reasonable return on compliance-related capital expenditures and a tariff addition containing the terms and conditions of a proposed surcharge. Within six (6) months of submittal, the commission shall approve the plan if it is a reasonable and cost-effective strategy for compliance with the applicable environmental requirements set forth in subsection (1) of this section and establish a reasonable return on compliance-related capital expenditures.

(3) The amount of the monthly environmental surcharge shall be filed with the commission ten (10) days before it is scheduled to go into effect, along with supporting data to justify the amount of the surcharge which shall include data and information as may be required by the commission. At six (6) month intervals, the commission shall review past operations of the environmental surcharge of each utility, and after hearing, if so ordered, shall, by temporary adjustment in the surcharge, disallow any surcharge amounts found not just and reasonable and reconcile past surcharges with actual costs recoverable pursuant to subsection (1) of this section. Every two (2) years the commission shall review and evaluate past operation of the surcharge, and after hearing, if so ordered, shall disallow improper expenses, and to the extent appropriate, incorporate surcharge amounts found just and reasonable into the existing base rates of each utility.

(4) The commission may employ competent, qualified independent consultants to assist the commission in its review of the utility's plan of compliance as specified in subsection (2) of this section. The cost of any consultant shall be included in the surcharge approved by the commission.

Section 2. KRS 278.020 is amended to read as follows:

(1) No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until such person has obtained from the Public Service Commission a certificate that public convenience and necessity require such construction. Upon the filing of an application for such a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part, except that the commission shall not refuse or modify an application submitted under KRS 278.023 without consent by the parties to the agreement. ***The commission, when considering an application for a certificate to construct a base load electric generating facility, may consider the policy of the General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the Commonwealth.*** Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

(2) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

(3) No utility shall apply for or obtain any franchise, license or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

(4) No person under the jurisdiction of the commission shall acquire or transfer ownership of or control, or the right to control, any utility, by sale of assets, transfer of stock or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

(5) No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any such acquisition of control without such prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any such individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the utility. This presumption may be rebutted by a showing that such ownership does not in fact confer control. Application for any such approval or authorization shall be made to the commission in writing, verified by oath or affirmation, and be in such form and contain such information as the commission requires. The commission shall approve any such proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make such investigation and hold such hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with such modification and upon such terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse or prescribe appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor or on a later date mutually acceptable to the commission and the acquirer. In the absence of any such action within such period of time, any such proposed acquisition shall be deemed to be approved.

(6) Subsection (5) of this section shall not apply to any acquisition of control of any:

(a) Utility which derives a greater percentage of its gross revenue from business in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (5) of this section;

(b) Utility by an acquirer who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such utility, including any entity created at the direction of such utility for purposes of corporate reorganization; or

(c) Utility pursuant to the terms of any indebtedness of the utility, provided the issuance of such indebtedness was approved by the commission.

(7) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions are declared to be severable.

The Committee Substitute to **SB 341** is as follows:

SB 341, AN ACT relating to utilities.

WHEREAS, it is hereby declared the policy of the General Assembly to foster and encourage the continued use of Kentucky coal by electric utilities serving the Commonwealth; and

WHEREAS, electric utilities should have incentive to use Kentucky coal in deciding how to best achieve and maintain compliance with the federal Clean Air Act as amended and those environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter, effective January 1, 1993, a utility shall be entitled to the current recovery of its costs of complying with the federal Clean Air Act as amended and those federal, state, or local environmental requirements which apply to coal combustion wastes and by-products from facilities utilized for production of energy from coal in accordance with the utility's compliance plan as designated in subsection (2) of this section. These costs shall include a reasonable return on construction and other capital expenditures and reasonable operating expenses for any plant, equipment, property, facility, or other action to be used to comply with applicable environmental requirements set forth in this section. Operating expenses include all costs of operating and maintaining environmental facilities, income taxes, property taxes, other applicable taxes, and depreciation expenses as these expenses relate to compliance with the environmental requirements set forth in this section.

(2) Recovery of costs pursuant to subsection (1) of this section that are not already included in existing rates shall be by environmental surcharge to existing rates imposed as a positive or negative adjustment to customer bills in the second month following the month in which costs are incurred. Each utility, before initially imposing an environmental surcharge pursuant to this subsection, shall thirty (30) days in advance file a notice of intent to file said plan and subsequently submit to the commission a plan, including any application required by KRS 278.020(1), for complying with the applicable environmental requirements set forth in subsection (1) of this section. The plan shall include the utility's testimony concerning a reasonable return on compliance-related capital expenditures and a tariff addition containing the terms and conditions of a proposed surcharge as applied to individual rate classes. Within six (6) months of submittal, the commission shall conduct a hearing to:

(a) Consider and approve the plan and rate surcharge if the commission finds the plan and rate surcharge reasonable and cost-effective for compliance with the applicable environmental requirements set forth in subsection (1) of this section;

(b) Establish a reasonable return on compliance-related capital expenditures; and

(c) Approve the application of the surcharge.

(3) The amount of the monthly environmental surcharge shall be filed with the commission ten (10) days before it is scheduled to go into effect, along with supporting data to justify the amount of the surcharge which shall include data and information as may be required by the commission. At six (6) month intervals, the commission shall review past operations of the environmental surcharge of each utility, and after hearing, as ordered, shall, by temporary adjustment in the surcharge, disallow any surcharge amounts found not just and reasonable and reconcile past surcharges with actual costs recoverable pursuant to subsection (1) of this section. Every two (2) years the commission shall review and evaluate past operation of the surcharge, and after hearing, as ordered, shall disallow improper expenses, and to the extent appropriate, incorporate surcharge amounts found just and reasonable into the existing base rates of each utility.

(4) The commission may employ competent, qualified independent consultants to assist the commission in its review of the utility's plan of compliance as specified in subsection (2) of this section. The cost of any consultant shall be included in the surcharge approved by the commission.

(5) The commission shall retain all jurisdiction granted by Sections 1 and 2 of this Act to review the environmental surcharge authorized by this section and any complaints as to the amount of any environmental surcharge or the incorporation of any environmental surcharge into the existing base rate of any utility.

Section 2. KRS 278.020 is amended to read as follows:

(1) No person, partnership, public or private corporation or combination thereof shall begin the construction of any plant, equipment, property or facility for furnishing to the public any of the services enumerated in KRS 278.010, except retail electric suppliers for service connections to electric-consuming facilities located within its certified territory and ordinary extensions of existing systems in the usual course of business, until such person has obtained from the Public Service Commission a certificate that public convenience and necessity require such construction. Upon the filing of an application for such a certificate, and after any public hearing which the commission may in its discretion conduct for all interested parties, the commission may issue or refuse to issue the certificate, or issue it in part and refuse it in part, except that the commission shall not refuse or modify an application submitted under KRS 278.023 without consent by the parties to the agreement. ***The commission, when considering an application for a certificate to construct a base load electric generating facility, may consider the policy of the General Assembly to foster and encourage use of Kentucky coal by electric utilities serving the Commonwealth.*** Unless exercised within one (1) year from the grant thereof, exclusive of any delay due to the order of any court or failure to obtain any necessary

grant or consent, the authority conferred by the issuance of the certificate of convenience and necessity shall be void, but the beginning of any new construction or facility in good faith within the time prescribed by the commission and the prosecution thereof with reasonable diligence shall constitute an exercise of authority under the certificate.

(2) No utility shall exercise any right or privilege under any franchise or permit, after the exercise of that right or privilege has been voluntarily suspended or discontinued for more than one (1) year, without first obtaining from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity authorizing the exercise of that right or privilege.

(3) No utility shall apply for or obtain any franchise, license or permit from any city or other governmental agency until it has obtained from the commission, in the manner provided in subsection (1) of this section, a certificate of convenience and necessity showing that there is a demand and need for the service sought to be rendered.

(4) No person under the jurisdiction of the commission shall acquire or transfer ownership of or control, or the right to control, any utility, by sale of assets, transfer of stock or otherwise, or abandon the same, without prior approval by the commission. The commission shall grant its approval if the person acquiring the utility has the financial, technical, and managerial abilities to provide reasonable service.

(5) No individual, group, syndicate, general or limited partnership, association, corporation, joint stock company, trust or other entity (an "acquirer"), whether or not organized under the laws of this state, shall acquire control, either directly or indirectly, of any utility furnishing utility service in this state, without having first obtained the approval of the commission. Any such acquisition of control without such prior authorization shall be void and of no effect. As used in this subsection, the term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a utility, whether through the ownership of voting securities, by effecting a change in the composition of the board of directors, by contract or otherwise. Control shall be presumed to exist if any such individual or entity, directly or indirectly, owns ten percent (10%) or more of the voting securities of the utility. This presumption may be rebutted by a showing that such ownership does not in fact confer control. Application for any such approval or authorization shall be made to the commission in writing, verified by oath or affirmation, and be in such form and contain such information as the commission requires. The commission shall approve any such proposed acquisition when it finds that the same is to be made in accordance with law, for a proper purpose and is consistent with the public interest. The commission may make such investigation and hold such hearings in the matter as it deems necessary, and thereafter may grant any application under this subsection in whole or in part and with such modification and upon such terms and conditions as it deems necessary or appropriate. The commission shall grant, modify, refuse or prescribe appropriate terms and conditions with respect to every such application within sixty (60) days after the filing of the application therefor or on a later date mutually acceptable to the commission and the acquirer. In the absence of any such action within such period of time, any such proposed acquisition shall be deemed to be approved.

(6) Subsection (5) of this section shall not apply to any acquisition of control of any:

(a) Utility which derives a greater percentage of its gross revenue from business in another jurisdiction than from business in this state if the commission determines that the other jurisdiction has statutes or rules which are applicable and are being applied and which afford protection to ratepayers in this state substantially equal to that afforded such ratepayers by subsection (5) of this section;

(b) Utility by an acquirer who directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such utility, including any entity created at the direction of such utility for purposes of corporate reorganization; or

(c) Utility pursuant to the terms of any indebtedness of the utility, provided the issuance of such indebtedness was approved by the commission.

(7) If any provision of this section or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this section which can be given effect without the invalid provision or application, and to that end the provisions are declared to be severable.

Calendar

HB 611, HB 840, HB 859, HB 877, SB 216, HB 326, HB 900, HB 250, SB 114, SB 192, SB 220, SB 251 and **SJR 37** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 546**, by Representative Geveden:

Amend printed copy of **HB 546/HCS** on page 1, line 20, to delete the same and to insert in lieu thereof: "***Headquarters, Kentucky State Police, Frankfort, Kentucky 40601, by certified mail.***; and

on page 2, line 15, to delete the same and to insert in lieu thereof: "***Headquarters, Kentucky State Police, Frankfort, Kentucky 40601.***"; and

on page 3, line 1, to delete "***sheriff***" and to insert in lieu thereof: "***Headquarters, Kentucky State Police, Frankfort, Kentucky 40601, by certified mail***"; and

on page 3, line 8, to delete "***sheriff where he now resides***" and to insert in lieu thereof: "***Headquarters, Kentucky State Police, Frankfort, Kentucky 40601, by certified mail,***"; and

on page 3, line 9, following "***address.***" to delete the remainder of the line; and

and on page 3, lines 10 and 11, to delete the same.

Floor Amendment No. 1 to **HB 926**, by Representative Ark:

Amend printed copy of **HB 926** on page 62, by inserting the following between lines 25 and 26:

"SECTION 29. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) After the effective date of this Act, any administrative body may adopt administrative regulations in accordance with the provisions of KRS Chapter 13A; however, such regulations shall be in effect only until the effective date for regular acts of the next succeeding regular session of the General Assembly on which date they shall expire, unless enacted into statute, under the KRS Chapter to which they apply, by the regular session of the General Assembly following their adoption.

(2) Each administrative body which seeks to continue the effective date of any administrative regulation beyond the date on which it shall expire pursuant to subsection (1) of this section shall prepare legislation proposing the enactment of such administrative regulations into the statutes to which they apply by the next regular session of the General Assembly. Such legislation may be introduced by any member of the General Assembly, but shall be submitted to the interim committee of the Legislative Research Commission of appropriate jurisdiction for its review and recommendation at least one hundred eighty (180) days prior to the convening of the next regular session of the General Assembly."; and

On page 62, line 26, by changing "Section 29" to "Section 30".

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 602, HB 603, HB 812, HB 201, HB 658, HB 708, HB 731, HB 822, HB 839, SB 191, HB 250, HB 326, HB 611, HB 877, HB 900, SB 114, HB 456, HCR 64, HCR 110** and **SB 50** have been posted for passage in the Orders of the Day for March 17, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 873, HB 816, HB 840**

Counties and Special Districts: **SB 54**

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 656** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:20 p.m.)

HB 656 was delivered to the Senate and signed by the President. Delivered to the Governor on March 16, 1992 at 3:13 p.m.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 112**, by Representative Moberly:

Amend printed copy of **SB 112/GA** on page 3, line 23, after "***supply.***" by inserting:

"***(c) Subsection (1)(b) shall not be construed as changing the relationship between the cabinet and the Kentucky River Authority and their respective responsibilities for oversight of the Kentucky River as set out in KRS 151.700 and KRS 151.720.***"

Floor Amendment No. 1 to **HB 729**, by Representative Moberly:

Amend printed copy of **HB 729** on page 5, lines 8 and 9, delete "***or, upon the authority's request the cabinet's department of law,***"; and

On page 5, lines 22 and 23, delete "***or, upon the authority's request by the cabinet's department of law,***".

Floor Amendment No. 1 to **HB 776**, by Representative Richards:

Amend printed copy of **HB 776** on page 3, by adding after line 14 the following:

"Section 2. KRS 61.691 is amended to read as follows:

(1) The board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky Employees Retirement System as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged over a five (5) year period. [~~The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period.~~]

(2) [~~Effective August 1, 1990, each recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 whose retirement date preceded January 1, 1982, shall have his benefits increased two dollars and fifty cents ($2.50) for each year the retirement allowance has been drawn. This increase in retirement allowance shall be calculated and applied to the recipient's retirement allowance prior to any other increase provided for in this section.~~

~~(3)~~]Effective August 1, ***1992*** [~~1990~~], and July 1, ***1993*** [~~1991~~], a recipient of a retirement allowance under KRS [~~16.510 to 16.652 and 61.515 to 61.705 and~~] 78.520 to 78.852 shall have his retirement allowance increased by ***one percent (1%)*** [~~two and nine-tenths percent (2.9%)~~].

(3)[~~(4)~~] A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective."; and

On page 3, line 15, by renumbering "Section 2." to read "Section 3.".

Orders of the Day

HB 174, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richardson moved the adoption of Committee Amendment No. 1 to **HB 174**. Agreed.

Representative Richardson moved that **HB 174**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 16, 1992 roll call on **HB 174** - Appendix.)

HB 174, as amended, was passed and the title agreed to.

Representative Richardson moved that the vote by which **HB 174**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 747 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **HB 747** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1992 roll call on **HB 747** - Appendix.)

HB 747 was passed and the title agreed to.

Representative Ark moved that the vote by which **HB 747** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 122, with Committee Amendments and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 122**. Agreed.

Representative Burch moved the adoption of Committee Amendment No. 2 to **HB 122**. Agreed.

Representative Burch moved that **HB 122**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 16, 1992 roll call on **HB 122** - Appendix.)

HB 122, as amended, was passed.

Representative Burch moved the adoption of the Committee Title Amendment to **HB 122**. Agreed; and the title was agreed to.

Representative Burch moved that the vote by which **HB 122**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 181, with Committee Amendments, Title Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Floor Amendment No. 2 to **HB 181**. Agreed.

Representative Noe moved that **HB 181**, as amended, be passed.

Representative Ark moved the adoption of Floor Amendment No. 3 to **HB 181**. Agreed.

Representative Noe moved that **HB 181**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1992 roll call on **HB 181** - Appendix.)

HB 181, as amended, was passed.

Representative Noe moved the adoption of the Committee Title Amendment to **HB 181**. Agreed; and the title was agreed to.

Representative Noe moved that the vote by which **HB 181**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 114**, by Representative Lewis:

Amend printed copy of **SB 114/GA** on page 33, line 12, by bracketing and striking through "and"; and by adding thereafter:

"***(7) All domestic relations commissioners appointed by Chief Circuit Judges pursuant to Civil Rule 53.03; and***"; and

on page 33, line 13, by bracketing and striking through "(7)" and by substituting therefor "***(8)***".

Floor Amendment No. 2 to **HB 776**, by Representative Hancock:

Amend printed copy of **HB 776** on page 3, line 14, by adding thereafter:

"Section 2. KRS 61.595 is amended to read as follows:

(1) Effective July 1, 1990, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to two and two-tenths percent (2.2%) for the County Employees Retirement System and***, effective July 1, 1992, two and one-tenth percent (2.1%)*** [~~one and ninety-seven hundredths percent (1.97%)~~] for the Kentucky Employees Retirement System of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the General Assembly, who serve during the 1974 or 1976 General Assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the General Assembly;

(b) The annual normal retirement allowance for members of the General Assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 General Assembly for legislative service prior to January 1, 1974;

(c) Former members of the General Assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of two hundred forty dollars ($240) times the years of legislative service, if the member pays to the Kentucky Employees Retirement System thirty-five percent (35%) of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five percent (65%) of the computed actuarial cost shall be paid from the State Treasury to the Kentucky Employees Retirement System upon presentation of a properly documented claim to the Finance and Administration Cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky Employees Retirement System, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employees retirement system or County Employees Retirement System shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) (a) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit, at least fifteen (15) of which are current service but a member of the Kentucky Employees Retirement System or the County Employees Retirement System who has twenty-seven (27) or more years of service credit, at least fifteen (15) of which are current service, may retire with no reduction in the retirement allowance. A member who has earned vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education may count the vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. The credit from a Kentucky institution of higher education shall not be used, however, to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of Teachers' Retirement System credit pursuant to KRS 61.680(2)(a).

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 3. KRS 61.691 is amended to read as follows:

(1) [~~The board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the~~ nonhazardous members of the Kentucky Employees Retirement System as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986, to August 1, 1990. Each year thereafter, the next year shall be added and the first year shall be dropped from the five (5) year averaging period.

(2) Effective August 1, 1990, each recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 whose retirement date preceded January 1, 1982, shall have his benefits increased two dollars and fifty cents ($2.50) for each year the retirement allowance has been drawn. This increase in retirement allowance shall be calculated and applied to the recipient's retirement allowance prior to any other increase provided for in this section.

~~(3)~~] Effective ***July*** [~~August~~] 1, ***1992*** [~~1990~~], and ***each*** July 1 ***thereafter***, [~~1991,~~] a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by ***three percent (3%)*** [~~two and nine-tenths percent (2.9%)~~].

(2)[~~(4)~~] A re-employed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving the retirement allowance at the time the increase under this section is effective.";

and on page 3, line 15, by deleting "Section 2." and by substituting therefor "Section 4.".

Orders of the Day (Continued)

HB 191, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 191**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 191**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 191**. Agreed.

Representative Geveden moved that **HB 191**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 16. (See March 16, 1992 roll call on **HB 191** - Appendix.)

HB 191, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 191**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 554, with Committee Substitute, Committee Amendment and Title Amendment and Floor Amendment attached thereto, attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 554**. Agreed.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 554**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 554**. Agreed.

Representative Burch moved that **HB 554**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 16, 1992 roll call on **HB 554** - Appendix.)

HB 554, by way of Committee Substitute as amended, was passed.

Representative Burch moved the adoption of the Committee Title Amendment to **HB 554**. Agreed; and the title was agreed to.

Representative Burch moved that the vote by which **HB 554**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 638, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of Floor Amendment No. 1 to **HB 638**. Agreed.

Representative Freibert moved the adoption of Floor Amendment No. 2 to **HB 638**. Agreed.

Representative Freibert moved that **HB 638**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 16, 1992 roll call on **HB 638** - Appendix.)

HB 638, as amended, was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 638**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 456**, by Representative Donnermeyer:

Amend printed copy of **HB 456/HCS** on page 3, line 3,

After "***other physician***" by inserting "***, one of whom is a neurologist,***"

Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 456**, by Representative Donnermeyer:

Amend printed copy of **HB 456/HCS** on page 3, line 21,

By deleting "***a relatively short time***" and inserting in lieu thereof "***hours or days***".

Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 456**, by Representative Donnermeyer:

Amend printed copy of **HB 456/HCS** on page 12, line 9, after "***by***" by inserting "***, or other clear expression of the wishes of,***".

Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 456**, by Representative Donnermeyer:

Amend printed copy of **HB 456/HCS** on page 13, after line 8,

By inserting the following new subsection:

"***(5) Nothing in this section shall be construed to sanction any act or omission by any person contrary to state or federal laws governing the treatment or care of minors.***"

Floor Amendment No. 5 to the Committee Substitute No. 2 to **HB 456**, by Representative Donnermeyer:

Amend printed copy of **HB 456/HCS** on page 17, line 3, By deleting the period "." and inserting in lieu thereof "*; or*"

"***(f) Failing to act in the best interest of a person for whom one is a surrogate, responsible party, physician, or health care facility when there are no clear instructions from the person that address the decision that must be made.***"

Floor Amendment No. 6 to the Committee Substitute No. 2 to **HB 456**, by Representative Donnermeyer:

Amend printed copy of **HB 456/HCS** on page 19, line 1,

After "***outside***" by inserting "***of but not contrary to***";

And on page 19, line 11,

After "***act***" by inserting "***or omission***".

Floor Amendment No. 7 to the Committee Substitute No. 2 to **HB 456**, by Representative Donnermeyer:

Amend printed copy of **HB 456/HCS** on page 13, by deleting lines 4 through 8 in their entirety.

Floor Amendment No. 8 to the Committee Substitute No. 2 to **HB 456**, by Representative Donnermeyer:

Amend printed copy of **HB 456/HCS** on page 17, line 4, by inserting the following:

"***(4) Any person may, in good faith, seek declaratory and injunctive relief from a court of competent jurisdiction upon information and belief that any surrogate, responsible party, physician, or health care facility seeks to violate the provisions of Sections 1 to 13 of this Act or in order to determine the application or validity of an advance directive.***";

And on page 17, line 4, by deleting "***(4)***" and inserting in lieu thereof "***(5)***".

Floor Amendment No. 1 to the Committee Substitute to **HB 667**, by Representative Gedling:

Amend printed copy of **HB 667/HCS** on page 11, line 21, by inserting between "authorized" and "expenses" the words "***operating and capital outlay***".

Orders of the Day (Continued)

HB 665, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 665**. Agreed.

Representative LeMaster moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 665**. Agreed.

Representative LeMaster moved that **HB 665**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1992 roll call on **HB 665** - Appendix.)

HB 665, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 665**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 753 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **HB 753** be passed.

On the roll call the vote was: Yeas 82, Nays 2. (See March 16, 1992 roll call on **HB 753** - Appendix.)

HB 753 was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 753** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 220, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Amendment No. 1 to **HB 220**. Agreed.

Representative Hancock moved that **HB 220**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 16, 1992 roll call on **HB 220** - Appendix.)

HB 220, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 220**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 133, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 2 to **HB 133**. Agreed.

Representative Hancock moved that **HB 133**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 16, 1992 roll call on **HB 133** - Appendix.)

HB 133, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 133**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 365**, by Representative Worthington:

Amend printed of **HB 365/HCS** on page 1, line 2, by bracketing and striking through "(a)"; and

on page 2, line 16, by placing an opening bracket before "(b)"; and on page 3, line 13, by placing a closing bracket after "1990." and by deleting the brackets within this block and striking through all material between the brackets that has not already been stricken through; and

on page 4, line 15, by inserting after "15.500" the following:

"***, except that beginning with fiscal year 1994-95, moneys remaining in the account at the end of the fiscal year in excess of one million dollars ($1,000,000) shall lapse***"; and

on page 4, line 20, by inserting after "95A.300" the following:

"***, except that beginning with fiscal year 1994-95, moneys remaining in the account at the end of the fiscal year in excess of one million dollars ($1,000,000) shall lapse, but moneys in the revolving loan fund established in Section 9 of this Act shall not lapse***"; and

on page 6, line 24 by inserting after "account" the following:

"***. Beginning with the fiscal year 1994-95, moneys remaining in the account at the end of the fiscal year in excess of one million dollars ($1,000,000) shall lapse, but moneys in the revolving loan fund established in Section 9 of this Act shall not lapse***"; and

on page 6, line 24, by placing an opening bracket before the first comma; and

on page 7, line 2, by placing a closing bracket before the period, and by striking through the language between the brackets; and on page 12, line 4, by inserting after "account" the words "***in excess of one million dollars ($1,000,000), beginning with fiscal year 1994-95***" and by bracketing and striking through "not", and by inserting after "lapse," the words "***except that moneys in the revolving loan fund established in Section 9 of this Act shall not lapse***" and by placing an opening bracket before "and", and

on page 12, line 6, by placing a closing bracket after "95.300" and by striking through the language between the brackets; and

on page 12, line 10, by inserting after "account," the words "***in excess of one million dollars ($1,000,000), beginning with fiscal year 1994-95,***" and by bracketing and striking through "not" and by placing an opening bracket before ", and", and

on page 12, line 11, by placing a closing bracket after "15.500" and by striking through the language between the brackets; and

on page 14, line 6, by deleting "***four thousand dollars ($4,000)***" and by substituting therefor "***five thousand dollars ($5,000)***"; and

on page 14, line 9, by deleting "***five thousand dollars***" and by substituting therefor "***six thousand dollars***"; and

on page 14, line 10, by deleting "***($5,000)***" and by substituting therefor "***($6,000)***" and by deleting "***which has at least***"; and

on page 14, by deleting line 11; and

on page 14, line 12, by deleting "***Firefighter I***"; and

on page 15, line 4, by inserting after "law." the following: "***Regulations shall require at a minimum that a qualifying department include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year.***"; and

on page 16, line 8, by deleting "***training enhancement***"; and

on page 16, line 9, by deleting "***grants,***" and the underlined comma after "***loans***"; and

on page 19, by deleting lines 17 through 26; and

on page 20, by deleting lines 1 through 6; and

on page 20, by deleting lines 7 through 10, and by substituting therefor:

"***(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium***"; and

on page 20, line 17, by inserting after "***loans***" the words "***, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less,***"; and

on page 20, line 26, by inserting after "***loans.***" the words:

"***If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments.***"; and

on page 27, by adding after line 22 the following:

"Section 14. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge

proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, ***but, beginning with fiscal year 1994-95, moneys remaining in the account at the end of the fiscal year in excess of one million dollars ($1,000,000)*** [~~and~~] shall [~~not~~] lapse[~~; and shall be continuously appropriated for the purposes specified in KRS 15.410 to 15.500, and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than as prescribed by KRS 15.410 to 15.500~~].".

Floor Amendment No. 9 to the Committee Substitute No. 2 to **HB 456**, by Representative Scorsone:

Amend printed copy of **HB 456/HCS** on page 11, line 23, after "***one (1)***" by inserting "***adult***".

And on page 11, line 25, by deleting "***The parents***" and inserting in lieu thereof "***A parent***".

And on page 11, line 26, after "***living***" by inserting "***adult***".

And on page 12, line 1, after "***one (1)***" by inserting "***adult***".

And on page 12, line 3, after "***living***" by inserting "***adult***".

And on page 12, lines 7-11, by deleting lines 7 through 11 in their entirety and inserting in lieu thereof the following:

"***(3) A responsible party may make health care decisions for the patient which the patient could make individually if he or she had decisional capacity. All the decisions shall be made in good faith and in accordance the the known desires of the patient, or as indicated in an advance directive if one exists. When making any health care decision for the patient, the responsible party shall consider the recommendation of the attending physician, and the best interest of the individual who does not have decisional capacity.***

(4) As used in this section, the term health care shall not include the performance of an abortion."

And on page 12, line 14, by deleting lines 14 through 26 in their entirety and inserting in lieu thereof the following:

"***(1) Any one (1) of the following responsible parties, in the following order of priority if no individual in a prior class is reasonably available, willing and competent to act, shall be authorized to make health care decisions on behalf of a minor:***

(a) The judicially appointed guardian of the minor;

(b) The adult spouse of the minor, if any;

(c) A parent of the minor;

(d) An adult designated in writing by the parent to act as a parent in the parent's absence;

(e) An adult sibling of the minor.

(2) All health care decisions made on behalf of a minor pursuant to this section shall be made in good faith. When making any health care decision for the minor, the responsible party shall consider the recommendation of the attending physician, and the best interest of the minor.

(3) As used in this section, the term health care shall not include the performance of an abortion."

And on page 13, line 1, by deleting lines 1 through 8 in their entirety.

And on page 14, line 3, by deleting "***qualified patient***" and inserting in lieu thereof "***grantor***".

Floor Amendment No. 10 to the Committee Substitute No. 2 to **HB 456**, by Representative Scorsone:

Amend printed copy of **HB 456/HCS** on page 11, line 23, after "***one (1)***" by inserting "***adult***".

And on page 11, line 25, by deleting "***The parents***" and inserting in lieu thereof "***A parent***".

And on page 11, line 26, after "***living***" by inserting "***adult***".

And on page 12, lines 7-11, by deleting lines 7 through 11 in their entirety and inserting in lieu thereof the following:

"***(3) A responsible party may make health care decisions for the patient which the patient could make individually if he or she had decisional capacity. All the decisions shall be made in good faith and in accordance the the known desires of the patient, or as indicated in an advance directive if one exists. When making any health care decision for the patient, the responsible party shall consider the recommendation of the attending physician, and the best interest of the individual who does not have decisional capacity.***

(4) As used in this section, the term health care shall not include the performance of an abortion."

And on page 13, after line 8, by inserting the following:

"***(5) All health care decisions made on behalf of a minor pursuant to this section shall be made in good faith. When making any health care decision for the minor, the responsible party shall consider the recommendation of the attending physician, and the best interest of the minor.***

(6) As used in this section, the term health care shall not include the performance of an abortion."

And on page 14, line 3, by deleting "***qualified patient***" and inserting in lieu thereof "***grantor***".

Orders of the Day (Continued)

HB 788 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **HB 788** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 16, 1992 roll call on **HB 788** - Appendix.)

HB 788 was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 788** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 800, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved that **HB 800** be passed.

Representative Donnermeyer moved the adoption of Floor Amendment No. 1 to **HB 800**. Agreed.

Representative LeMaster moved that **HB 800**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 16, 1992 roll call on **HB 800** - Appendix.)

HB 800, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 800**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 830, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of the Committee Substitute to **HB 830**. Agreed.

Representative LeMaster moved the adoption of Floor Amendment No.2 to the Committee Substitute to **HB 830**. Agreed.

Representative LeMaster moved that **HB 830**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 2. (See March 16, 1992 roll call on **HB 830** - Appendix.)

HB 830, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 830**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 185, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of the Committee Substitute to **HB 185**. Agreed.

Representative Little moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 185**. Agreed.

Representative Little moved that **HB 185**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 75 Nays 9. (See March 16, 1992 roll call on **HB 185** - Appendix.)

HB 185, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 185**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **HCR 159**, by Representative Geveden:

Amend printed copy of **HCR 159** change the title to read "A CONCURRENT RESOLUTION to study emergency management."

Orders of the Day (Continued)

HB 223, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Amendment No. 1 to **HB 223**. Agreed.

Representative Noe moved the adoption of Committee Amendment No. 2 to **HB 223**. Agreed.

Representative Noe moved that **HB 223**, as amended, be passed.

Representative Keith moved the adoption of Floor Amendment No. 1 to **HB 223**. Agreed.

Representative Noe moved that **HB 223**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 16, 1992 roll call on **HB 223** - Appendix.)

HB 223, as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 223**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 224, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Amendment No. 1 to **HB 224**. Agreed.

Representative Noe moved the adoption of Committee Amendment No. 2 to **HB 224**. Agreed.

Representative Noe moved the adoption of Committee Amendment No. 3 to **HB 224**. Agreed.

Representative Noe moved that **HB 224**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 16, 1992 roll call on **HB 224** - Appendix.)

HB 224, as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 224**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 769, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Committee Amendment No. 1 to **HB 769**. Agreed.

Representative Ford moved that **HB 769**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See March 16, 1992 roll call on **HB 769** - Appendix.)

HB 769, as amended, was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 769**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 167, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Committee Amendment No. 1 to **HB 167**. Agreed.

Representative Heleringer moved that **HB 167**, as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 16. (See March 16, 1992 roll call on **HB 167** - Appendix.)

HB 167, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 167**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 604, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Committee Substitute to **HB 604**. Agreed.

Representative Richards moved that **HB 604**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 16, 1992 roll call on **HB 604** - Appendix.)

HB 604, by way of Committee Substitute, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 604**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 761 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rapier moved that **HB 761** be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 16, 1992 roll call on **HB 761** - Appendix.)

HB 761 was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 761** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 192, with Committee Substitutes attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute No. 2 to **HB 192**. Agreed.

Representative Geveden moved that **HB 192**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 16, 1992 roll call on **HB 192** - Appendix.)

HB 192, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 192**, by way of Committee Substitute No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 765**, by Representative Donnermeyer:

Amend printed copy of **HB 765** on page 1, line 4, by deleting "***official***" and inserting in lieu thereof "***officer***"; and

On page 1, line 5, by inserting the following after "***government***": "***to serve as an ''officer'' as defined in KRS 83A.010 for appointed positions***"; and

On page 1, line 6, by deleting "***officials***" and inserting in lieu thereof "***officers, appointed after the effective date of this Act,***".

Floor Amendment No. 3 to the Committee Substitute to **HB 365**, by Representative Worthington:

Amend printed copy of **HB 365/HCS** on page 1, line 2, by bracketing and striking through "(a)"; and

on page 2, line 16, by placing an opening bracket before "(b)"; and on page 3, line 13, by placing a closing bracket after "1990." and by deleting the brackets within this block and striking through all material between the brackets that has not already been stricken through; and

on page 4, line 15, by inserting after "15.500" the following:

"***, except that beginning with fiscal year 1994-95, moneys remaining in the account at the end of the fiscal year in excess of one million dollars ($1,000,000) shall lapse***"; and

on page 4, line 20, by inserting after "95A.300" the following:

"***, except that beginning with fiscal year 1994-95, moneys remaining in the account at the end of the fiscal year in excess of one million dollars ($1,000,000) shall lapse, but moneys in the revolving loan fund established in Section 9 of this Act shall not lapse***"; and

on page 6, line 24 by inserting after "account" the following:

"***. Beginning with the fiscal year 1994-95, moneys remaining in the account at the end of the fiscal year in excess of one million dollars ($1,000,000) shall lapse, but moneys in the revolving loan fund established in Section 9 of this Act shall not lapse***"; and

on page 6, line 24, by placing an opening bracket before the first comma; and

on page 7, line 2, by placing a closing bracket before the period, and by striking through the language between the brackets; and

on page 12, line 4, by inserting after "account" the words "***in excess of one million dollars ($1,000,000), beginning with fiscal year 1994-95***" and by bracketing and striking through "not", and by inserting after "lapse," the words "***except that moneys in the revolving loan fund established in Section 9 of this Act shall not lapse***" and by placing an opening bracket before "and", and on page 12, line 6, by placing a closing bracket after "95.300" and by striking through the language between the brackets; and

on page 12, line 10, by inserting after "account," the words "***in excess of one million dollars ($1,000,000), beginning with fiscal year 1994-95,***" and by bracketing and striking through "not" and by placing an opening bracket before ", and", and

on page 12, line 11, by placing a closing bracket after "15.500" and by striking through the language between the brackets; and

on page 14, line 6, by deleting "***four thousand dollars ($4,000)***" and by substituting therefor "***five thousand dollars ($5,000)***"; and

on page 14, line 9, by deleting "***five thousand dollars***" and by substituting therefor "***six thousand dollars***"; and

on page 14, line 10, by deleting "***($5,000)***" and by substituting therefor "***($6,000)***" and by deleting "***which has at least***"; and

on page 14, by deleting line 11; and

on page 14, line 12, by deleting "***Firefighter I***"; and

on page 14, line 20, by deleting "***qualifying department,***"; and

on page 15, line 4, by inserting after "law." the following: "***A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations.***"; and

on page 16, line 8, by deleting "***training enhancement***"; and

on page 16, line 9, by deleting "***grants,***" and the underlined comma after "***loans***"; and

on page 19, by deleting lines 17 through 26; and

on page 20, by deleting lines 1 through 6; and

on page 20, by deleting lines 7 through 10, and by substituting therefor:

"***(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium***"; and

on page 20, line 17, by inserting after "***loans***" the words "***, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less,***"; and

on page 20, line 26, by inserting after "***loans.***" the words:

"***If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments.***"; and

on page 27, by adding after line 22 the following:

"Section 14. KRS 15.430 is amended to read as follows:

(1) There is hereby established the Law Enforcement Foundation Program fund consisting of appropriations from the general fund of the Commonwealth of Kentucky, and insurance premium surcharge proceeds which accrue to this fund pursuant to KRS 42.190 and 136.392. Any other funds, gifts, or grants made available to the state for distribution to local units of government in accordance with the provisions of KRS 15.410 to 15.510 also shall be made a part of this fund.

(2) All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, ***but, beginning with fiscal year 1994-95, moneys remaining in the account at the end of the fiscal year in excess of one million dollars ($1,000,000)*** [~~and~~] shall [~~not~~] lapse[~~, and shall be continuously appropriated for the purposes specified in KRS 15.410 to 15.500, and shall not be disbursed, expended, encumbered or transferred for any use or purpose other than as prescribed by KRS 15.410 to 15.500~~].".

Floor Amendment No. 2 to **SB 114**, by Representative Barrows:

Amend printed copy of **SB 114/GA** on page 29, line 19, by bracketing and striking through "six (6)" and by substituting therefor "***nine (9)***" and by deleting the closing bracket after "event", and by striking through "and not"; and

on page 29, line 20, by placing a closing bracket after and striking through "renewable".

Orders of the Day (Continued)

HB 698, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved the adoption of the Committee Substitute to **HB 698**. Agreed.

Representative Worthington moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 698**. Agreed.

Representative Worthington moved that **HB 698**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 0. (See March 16, 1992 roll call on **HB 698** - Appendix.)

HB 698, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 698**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 732, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 732** be passed.

On the roll call the vote was: Yeas 43, Nays 51. (See March 16, 1992 roll call on **HB 732** - Appendix.)

HB 732 was defeated.

Representative Stumbo moved that the vote by which **HB 732** was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 738 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HB 738** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 16, 1992 roll call on **HB 738** - Appendix.)

HB 738 was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 738** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 460, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ward moved the adoption of Committee Amendment No. 1 to **HB 460**. Agreed.

Representative Ward moved that **HB 460**, as amended, be passed.

Representative Casebier moved the adoption of Floor Amendment No. 1 to **HB 460**.

Representative Farrow inquired whether Floor Amendment No. 1 is germane to **HB 460**.

The Speaker ruled that Floor Amendment No. 1 is not germane to **HB 460**.

Representative Mack moved that **HB 460** be laid on the table.

On the roll call the vote was yeas 39—Ackerson, Adkins, Allen, Altman, Ballard, Bentley, Bruce, Bryant, Castleman, P. Clark, Collins, Crupper, Curd, Deskins, Farley, Gedling, Gee, J. Harper, Keith, Little, Lyne, Mack, Maggard, Morris, Mullinix, Napier, Nelson, Noland, Nunn, Overstreet, Ravenscraft, Reinhardt, Richardson, Ridley, Sanders, B. Smith, Strong, Todd, Turner. Nays 46—Ark, Arnold, Blandford, Bowling, Bronger, Brown, Callahan, L. Clark, Clarke, Coleman, Donnermeyer, Farrow, Ford, Freibert, Geveden, Gray, Gregory, Hancock, Hatcher, Heleringer, Johnson, Jones, Kerr, Lear, LeMaster, Long, Mason, McElroy, Moberly, Noe, Northup, Palumbo, Rapier, Richards, Riggs, Riner, Scorsone, Sheehan, Stokes, Stumbo, Walker, Ward, Wayne, Worthington, Yates, Zimmerman.

The motion that **HB 460** be laid on the table was rejected.

On the roll call on the passage of **HB 460**, as amended, the vote was: Yeas 52, Nays 43. (See March 16, 1992 roll call on **HB 460** - Appendix.)

HB 460, as amended, was passed and the title agreed to.

Representative Ward moved that the vote by which **HB 460**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 596**, by Representative Moberly:

Amend printed copy of **HB 596** on page 4, line 22, after "section.", by adding the following: "***However, for the school years 1992-93 and 1993-94, local school districts may use up to five (5) instructional days or up to thirty (30) hours during instructional days for additional professional development for teachers if the following conditions are met:***

(a) The local board determines the number of additional days or hours to be used for professional development and designates them in the school calendar; and

(b) A plan for the use of the additional days or hours is developed by each school and approved by the district superintendent. The plan shall consist of training selected from a list approved by the Kentucky Department of Education."

Floor Amendment No. 2 to **HB 729**, by Representative Moberly:

Amend printed copy of **HB 729** on page 6, line 10, after "***Chapters***" by inserting "***151***" and deleting "***157***".

Orders of the Day (Continued)

HB 636 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **HB 636** be passed.

On the roll call the vote was: Yeas 84, Nays 0. (See March 16, 1992 roll call on **HB 636** - Appendix.)

HB 636 was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 636** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 651, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved the adoption of the Committee Substitute to **HB 651**. Agreed.

Representative Jones moved that **HB 651**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 55, Nays 32. (See March 16, 1992 roll call on **HB 651** - Appendix.)

HB 651, by way of Committee Substitute, was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 651**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 744, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of Committee Amendment No. 1 to **HB 744**. Agreed.

Representative Lewis moved that **HB 744**, as amended, be passed.

Representative Lewis moved the adoption of Committee Amendment No. 2 to **HB 744**. Agreed.

Representative Lewis moved that **HB 744**, as amended, be passed.

Representative Donnermeyer moved that **HB 744** be laid on the Clerk's Desk.

On the roll call the vote was yeas 9—Altman, Ark, Ballard, Bryant, L. Clark, Crupper, Donnermeyer, Jones, Keith. Nays 48—Ackerson, Adkins, Arnold, Blandford, Bowling, Brown, Bruce, Castleman, Clarke, Coleman, Curd, Cyrus, Deskins, Ford, Gedling, Geveden, Gray, Hatcher, Heleringer, Johnson, LeMaster, Lyne, Mack, Maggard, Mason, Moberly, Mullinix, Napier, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Riner, Scorsone, Sheehan, B. Smith, Stumbo, Todd, Turner, Walker, Ward, Wayne, Yates, Zimmerman.

The motion that **HB 744** be laid on the Clerk's Desk was rejected.

On the roll call on the passage of **HB 744**, as amended, the vote was: Yeas 53, Nays 30. (See March 16, 1992 roll call on **HB 744** - Appendix.)

HB 744, as amended, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 744**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 710 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved that **HB 710** be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See March 16, 1992 roll call on **HB 710** - Appendix.)

HB 710 was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 710** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement be waived on **HCR 167**, **SB 35**, **HB 838**, **HB 113**, **SB 205**, **HCR 159** and **HB 868**. Agreed.

Representative Barrows moved that the three day posting requirement be waived on **HB 943**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HR 206, by Representative Barrows: A RESOLUTION in honor of John Wayne Thompson.

HR 207, by Representatives Turner and Strong: A RESOLUTION adjourning in honor of Charles Boggs, former mayor of Loyall.

HR 208, by Representatives Gray, Hatcher and Toby: A RESOLUTION in honor of the occasion of the fiftieth birthday of Muhammad Ali.

HR 209, by Representatives Sheehan and K. Harper: A RESOLUTION honoring Kurt J. Hugenberg upon his arrival to the coveted Eagle Scout rank.

HR 210, by Representatives Sheehan and K. Harper: A RESOLUTION honoring Jason E. Hiltz upon his arrival to the coveted Eagle Scout rank.

HR 211, by Representative Wayne: A RESOLUTION endorsing Kentucky's Comprehensive Plan for Community Service.

HR 212, by Representative Blandford: A RESOLUTION consenting to the appointment of Marc E. Washington to the Governor's Higher Education Nominating Committee.

HR 213, by Representative Blandford: A RESOLUTION consenting to the appointment of Morton J. Holbrook, Jr. to the Governor's Higher Education Nominating Committee.

HR 214, by Representative Blandford: A RESOLUTION consenting to the appointment of Norma Boster Adams to the Governor's Higher Education Nominating Committee.

HR 215, by Representative Blandford: A RESOLUTION consenting to the appointment of Sara Lowry Page to the Governor's Higher Education Nominating Committee.

HR 216, by Representative Blandford: A RESOLUTION consenting to the appointment of Henry M. Mann to the Governor's Higher Education Nominating Committee.

HR 217, by Representative Blandford: A RESOLUTION consenting to the appointment of Louis Prichard to the Governor's Higher Education Nominating Committee.

HR 218, by Representative Blandford: A RESOLUTION consenting to the appointment of Wilson W. Wyatt, Sr. to the Governor's Higher Education Nominating Committee.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Banking and Insurance: **HB 838, SB 242, SB 311**

State Government: **SB 41, SJR 69, SB 130, SB 267, SB 309, SB 351, HB 376, HB 876, HB 892, HB 899, HB 908, HB 921, HB 948**

Motions, Petitions and Communications (Continued)

Representative Turner moved the adoption of the following **HR 207**:

HR 207, A RESOLUTION adjourning in honor of Charles Boggs, former mayor of Loyall.

WHEREAS, the honorable Charles Boggs of Loyall died Friday, March 13, 1992; and

WHEREAS, Mr. Boggs was mayor of Loyall from 1982 to 1986; and

WHEREAS, he was the retired owner and operator of Harco distributors, B and K Provisions Meat Market, and Loyall Auto Sales; and

WHEREAS, this active Republican was a field representative for U. S. Representative Tim Lee Carter; and

WHEREAS, this prominent Kentuckian was a Kentucky Colonel and Admiral, member of the Loyall Masonic Lodge, Scottish Rites, Gideons, and the First Baptist Church of Loyall; and

WHEREAS, Charles Boggs was the devoted husband of Celita Goforth Boggs and the loving step-father of Melissa Boggs; and

WHEREAS, all who knew and admired Charles Boggs will grieve over their loss;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hereby express its profound sense of sorrow upon the death of Charles Boggs.

Section 2. That when the House of Representatives adjourns today, it does so in honor and memory of Charles Boggs.

Section 3. That the Clerk of the House of Representatives is directed to send a copy of this Resolution to Celita Goforth Boggs, 704 Wilkerson Street, Loyall, Kentucky, 40854.

HR 207 was adopted by voice vote.

Representative Barrows moved the adoption of the following **HR 206**:

HR 206, A RESOLUTION in honor of John Wayne Thompson.

Courage consists, not in blindly overlooking danger, but in seeing and conquering it.

WHEREAS, John Wayne Thompson, an eighteen-year-old high school senior from Hurdsfield, North Dakota, was confronted with death on January 11, 1992, when the farm machinery he was operating accidentally severed his arms; and

WHEREAS, John Wayne Thompson courageously struggled in the face of adversity on that fateful date, and with the assistance of will and determination, he allowed himself to stay calm and clearheaded long enough to seek help by dialing a telephone number with a pen between his teeth; and

WHEREAS, John Wayne Thompson's arms were reattached, and he is recovering very satisfactorily from this traumatic event with the help of his friends and family;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body proudly salutes and hails John Wayne Thompson for his strength and courage during the most painful and trying time of his life.

Section 2. That this honorable body wishes for John Wayne Thompson a very speedy recovery and congratulates him for his quick thinking and strong resolution during this traumatic event.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. John Wayne Thompson, Hurdsfield, North Dakota 58451.

HR 206 was adopted by voice vote.

Representative Gray moved the adoption of the following **HR 208**:

HR 208, A RESOLUTION in honor of the occasion of the fiftieth birthday of Muhammad Ali.

WHEREAS, Muhammad Ali, a native of Louisville, Jefferson County, Kentucky was born on January 17, 1942; and

WHEREAS, Muhammad Ali, a Kentucky legend and the greatest heavyweight boxer of all-time, has demonstrated to the world his magnificence and super excellence in the sport of boxing; and

WHEREAS, Muhammad Ali's concern for the good of mankind has been an inspiration to the world; and

WHEREAS, Muhammad Ali celebrated his fiftieth birthday on January 17, 1992;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body recognizes Muhammad Ali as the absolute greatest in the sport of boxing and we honor and salute his genius.

Section 2. That this honorable body wishes to Muhammad Ali the very happiest birthday year and success in all future endeavors.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr Charles Martan, 4153 Hale Avenue, Louisville, Kentucky 40211.

HR 208 was adopted by voice vote.

Representative Wayne moved the adoption of the following **HR 211**:

HR 211, A RESOLUTION endorsing Kentucky's Comprehensive Plan for Community Service.

WHEREAS, the 1990 National and Community Service Act provides funds, training, and technical assistance to states and communities to develop and expand service opportunities, particularly in the area of youth community service; and

WHEREAS, the Act is designed to help young people develop civic responsibility and a sense of self-worth through meaningful service-learning opportunities and to encourage full-time or part-time volunteer service by citizens of all ages; and

WHEREAS, the four parts of the Act provide for school-based community service, community service in higher education, a conservation and youth service corps program, and a program to involve individuals 17 and older in full-time or part-time community service; and

WHEREAS, the Governor has designated the Department of Education as the agency to lead the development of a comprehensive, coordinated state plan under the National and Community Service Act; and

WHEREAS, House Bill 14, which authorizes the development of the Kentucky Peace Corps, has been approved by the House of Representatives; and

WHEREAS, the National and Community Service Act will provide much needed funds for programs that will be included in the Kentucky Peace Corps;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hereby endorses the comprehensive state plan which will accompany the grant application for funds provided by the 1990 National and Community Service Act.

Section 2. That a copy of this resolution be forwarded to H. Gippy Graham in the Department of Education for inclusion with the grant application.

HR 211 was adopted by voice vote.

Representative Little moved the adoption of the following **HR 203**:

HR 203, A RESOLUTION urging the Transportation Cabinet to study the use of wood products in bridge construction.

WHEREAS, the need to diversify the employment base in Kentucky and increase economic development for our citizens is vital to a healthy state economy; and

WHEREAS, a large portion of the Commonwealth is wooded and conducive to supporting various timber industries; and

WHEREAS, a request to use timber in bridge construction was proffered to the House Committee on Transportation in House Bill 393; and

WHEREAS, the members of the House Committee on Transportation agreed that the use of timber in bridge construction was a worthy idea that needed to be researched by the State Transportation Cabinet; and

WHEREAS, the House Transportation Committee has requested this honorable body to pursue this matter;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Transportation Cabinet is urged to study the use of wood products in bridge construction and to amend design specifications to permit the use of wood products.

Section 2. That a copy of this Resolution is directed to be transmitted to the Governor and the Secretary of the Transportation Cabinet.

HR 203 was adopted by voice vote.

Representative Sheehan moved the adoption of the following **HR 209**:

HR 209, A RESOLUTION honoring Kurt J. Hugenberg upon his arrival to the coveted Eagle Scout rank.

WHEREAS, our conduct mirrors our doctrine; and

WHEREAS, our leadership deals in hope; and

WHEREAS, our good fellowship is essential to our success; and

WHEREAS, our practicing citizenship furthers democracy and good will; and

WHEREAS, by our service to others we find self-fulfillment; and

WHEREAS, both the Eagle rank and the legislators' rank represent a commitment to the high standards of personal conduct and promote leadership, fellowship, citizenship, and a spirit of service; and

WHEREAS, it is appropriate that this recognition of Kurt J. Hugenberg's advancement to Eagle rank come from this honorable body;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors Kurt J. Hugenberg of St. Pius X Boy Scout Troop 779 of Edgewood, Kentucky, son of Mr. and Mrs. Peter Hugenberg, upon the occasion of his progressing to Eagle rank.

Section 2. That the Clerk of the House is directed to transmit three copies of this Resolution to David Meyer, 3403 Linden Wood Drive, Erlanger, Kentucky 41018.

HR 209 was adopted by voice vote.

Representative Sheehan moved the adoption of the following **HR 210**:

HR 210, A RESOLUTION honoring Jason E. Hiltz upon his arrival to the coveted Eagle Scout rank.

WHEREAS, our conduct mirrors our doctrine; and

WHEREAS, our leadership deals in hope; and

WHEREAS, our good fellowship is essential to our success; and

WHEREAS, our practicing citizenship furthers democracy and good will; and

WHEREAS, by our service to others we find self-fulfillment; and

WHEREAS, both the Eagle rank and the legislators' rank represent a commitment to the high standards of personal conduct and promote leadership, fellowship, citizenship, and a spirit of service; and

WHEREAS, it is appropriate that this recognition of Jason E. Hiltz's advancement to Eagle rank come from this honorable body;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors Jason E. Hiltz of St. Pius X Boy Scout Troop 779 of Edgewood, Kentucky, son of Dr. and Mrs. Steven W. Hiltz, upon the occasion of his progressing to Eagle rank.

Section 2. That the Clerk of the House is directed to transmit three copies of this Resolution to David Meyer, 3403 Linden Wood Drive, Erlanger, Kentucky 41018.

HR 210 was adopted by voice vote.

Representative Crupper moved the adoption of the following **HR 205**:

HR 205, A RESOLUTION honoring Kentucky's farmers.

WHEREAS, Kentucky farmers have been and continue to be a tremendously important part of the Commonwealth of Kentucky; and

WHEREAS, the Kentucky farmer's achievement of the high values of life serves as an example for all Kentuckians; and

WHEREAS, nearly one-fourth of all jobs in Kentucky exist because of agriculture; and

WHEREAS, the nation's farmers represent only two percent of the national population and feed 240 million Americans and 500 million other people throughout the world; and

WHEREAS, March 15-21, 1992, is National Agriculture Week, and March 20, 1992, is National Agriculture Day; and

WHEREAS, Kentuckians, all Americans, and millions of people throughout the world are indebted to farmers for their sustenance;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Kentucky's farmers and farmer organizations are commended for their outstanding contributions.

Section 2. That the vital importance of Kentucky's farmers is recognized by all Kentuckians.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Kentucky Farm Bureau, 9201 Bunsen Parkway Box 20900, Louisville, Kentucky 40220-0900.

HR 205 was adopted by voice vote.

Representative Hancock moved that **HB 361** be taken from the Orders of the Day and recommitted to the Committee on Transportation. Agreed.

Representative Stumbo moved that **SB 128**, **SB 176** and **SB 367** be reassigned to the Committee on Transportation. Agreed.

Representative Stumbo moved that the rules be suspended for Report of Committees. Agreed.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Transportation: **SB 367**

Floor Amendments (Continued)

Floor Amendment No. 11 to the Committee Substitute No. 2 to **HB 456**, by Representative Williams:

Amend printed copy of **HB 456/HCS** and on page 13, line 25,

By deleting "***immediately***" and inserting in lieu thereof "***within a reasonable time***"

And on page 14, line 1,

After "***refusal.***" by inserting "***Unless bad faith or a violation of this subsection is suspected,***"

And on page 16, line 3,

After "***to***" by inserting "***, or has reason to doubt,***";

And on page 17, after line 3, by inserting the following new subsection:

"***(4) Any person may, in good faith, seek declaratory and injunctive relief from a court of competent jurisdiction upon information and belief that any surrogate, responsible party, physician, or health care facility seeks to violate the provisions of Sections 1 to 13 of this Act or in order to determine the application or validity of an advance directive.***"

And by renumbering the remaining subsection to conform.

And on page 19, line 11, after "***act***" by inserting "***or omission***".

Floor Amendment No. 12 to the Committee Substitute No. 2 to **HB 456**, by Representative Williams:

Amend printed copy of **HB 456/HCS** on page 3, line 1, by deleting "***, to a reasonable degree of medical probability,***" and inserting in lieu thereof "***has existed for a period of three (3) months without improvement and***".

And on page 3, line 3, after "***other***" by inserting "***qualified***".

And on page 3, line 9, by inserting the following new subsection:

"***(13) "Qualified physician" means a physician:***

(a) In regard to determination of a permanently unconscious state, who is a board certified neurologist;

(b) In regard to determination of a terminal condition, whose area of practice includes the terminal condition."

And by renumbering the remaining subsections to conform.

And on page 3, line 20, after "***other***" by inserting "***qualified***"

And on page 11, line 2, after "***other***" by inserting "***qualified***".

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills: **HB 365**, Representative Noe; **HB 604**, Representative Casebier.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 458** after concurrence with Senate Amendments. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 738**, **HB 761**, **HB 223** and **HB 192**. Agreed.

Representative Williams moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Williams moved that he be recorded as voting "nay" on **HB 458**. Agreed.

Representative Williams moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Williams moved that he be recorded as voting "nay" on concurrence of Senate Amendments on **HB 458**. Agreed.

Representative J. Harper moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Harper moved that his vote be changed from "abstain" to "nay" on **HB 458**. Agreed.

Representative Napier moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Napier moved that his vote be changed from "nay" to "yea" on **HB 122**. Agreed.

Representative Toby moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Toby moved that his vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Bryant moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bryant moved that she be recorded as voting "nay" on **HB 460**. Agreed.

Representative Collins moved the that rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that he be recorded as voting "yea" on **HB 220**. Agreed.

Representative Casebier moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Casebier moved that he be recorded as voting "yea" on **HB 460** and **HB 224**. Agreed.

Representative T. Smith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Smith moved that he be recorded as voting "yea" on **HB 181**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "yea" to "nay" on **HB 651**. Agreed.

Representative Noe moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Noe moved that he be recorded as voting "yea" on **HB 379**. Agreed.

Representative Strong moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that his vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Callahan moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HB 604**, **HB 761**, **HB 192** and **HB 698**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "abstain" on **HB 458**. Agreed.

Representative K. Harper moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative K. Harper moved that his vote be changed from "nay" to "yea" on **HB 460**. Agreed.

Announcements

The following meetings were announced:

Agriculture and Small Business, 8:30 a.m., March 17, 1992, Room 129.

Appropriations and Revenue, 10:00 a.m., March 17, 1992, Room 129.

Natural Resources and Environmental Protection, 15 minutes upon adjournment, Room 129, March 16, 1992.

Elections and Constitutional Amendments, 30 minutes upon adjournment, March 16, 1992.

Cities, 8:00 a.m., March 17, 1992, Room 131.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 17, 1992.

On the roll call the vote was yeas 80—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Gray, Hancock, J. Harper, K. Harper, Jensen, Johnson, Jones, Kerr, Lear, Lewis, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richardson, Ridley, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Stumbo, Toby, Todd, Turner, Wayne, Ward, Williams, Worthington, Yates, Zimmerman. Nays 3—Bronger, LeMaster, Lile.

The motion to adjourn was adopted.

TUESDAY, MARCH 17, 1992

FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Rodney Burnett, 9th and O Baptist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Northup.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 16, 1992 be dispensed with and the same approved. Agreed.

Reverend K. Le has been withdrawn from consideration to the State Board for Elementary and Secondary Education.

Senate Message

Announcing passage of **SB 188**, **SB 226**, **SB 261**, **SB 262**, **SB 272**, **SB 303**, **SB 310**, **SB 312**, **SB 320**, **SB 324**, **SB 339**, **SB 384**, **SB 386**, **SB 398**, **SB 420**, **SJR 103**, **SCR 106**, **SJR 108**, **SCR 111**, **HB 19**, with Senate Amendment attached thereto, **HB 561** with Senate Amendment attached thereto, **HB 128**, **HB 343**, **HB 344**, **HB 377**, **HB 408**, **HB 477**, **HB 505**, **HB 606** and **HB 700**. (Time: 2:05 p.m.)

Introduction of Bills and Resolutions

HR 219, by Representative Callahan: A RESOLUTION honoring Howard "Brownie" Braun.

HR 220, by Representative Callahan: A RESOLUTION honoring Larry Herfurth of Southgate.

HR 221, by Representative Noland: A RESOLUTION celebrating the one hundred and thirty-three years Jackson County has been a part of the Commonwealth of Kentucky upon the occasion of Kentucky's Bicentennial Year.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 377**

Appropriations and Revenue: **SB 383**, **SB 301**

Counties and Special Districts: **SB 177**

Education: **HR 212**, **HR 213**, **HR 214**, **HR 215**, **HR 216**, **HR 217**, **HR 218**

Judiciary: **SB 131**, **SB 244**, **SB 325**

Labor and Industry: **SB 328**

Natural Resources and Environmental Protection: **SB 372**, **SB 381**

Transportation: **SB 239**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **HB 714**, **SB 260**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Education: **HB 673**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 532**, **HB 880**, with Committee Amendment and Title Amendment attached thereto, **HCR 171** and **SB 81**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 532, AN ACT relating to rabies control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.005 is amended to read as follows:

As used in KRS 258.005 to 258.085 and subsections (1) and (2) of KRS 258.990, unless the context requires otherwise:

(1) "Dog" means any member of the canine family.

(2) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog or has it in his care, or permits it to remain on or about premises owned or occupied by him.

(3) "Veterinarian" means a licensed practitioner of veterinary medicine.

(4) [~~"Qualified person" means a person granted a permit by the secretary for human resources to vaccinate animals against rabies and may include owners or operators of licensed kennels.~~

~~(5)~~] "Vaccination" means the injection by a ***person authorized by Section 2 of this Act*** [~~veterinarian or other qualified person~~] of ***a*** vaccine approved by[~~, and administered in accordance with the regulations of~~] the secretary for human resources ***by administrative regulation.***

Section 2. KRS 258.015 is amended to read as follows:

Every owner shall have his dog initially vaccinated by the age of four (4) months and re-vaccinated against rabies at the expiration of the immunization period as certified by the veterinarian. ***All animal rabies vaccines shall be restricted to use by or under the supervision of a veterinarian. All animal rabies vaccinations shall be administered by or under the supervision of a veterinarian.*** The veterinarian [~~or qualified person~~] who vaccinates a dog shall issue to the owner [~~thereof~~] a vaccination certificate on a form prescribed and supplied by the Cabinet for Human Resources. The vaccination certificate shall be prepared and issued in triplicate, one (1) copy to be retained by the issuing veterinarian [~~or other qualified person~~], one (1) copy to be given to the owner of the dog vaccinated, and one (1) copy to be forwarded by the veterinarian [~~or qualified person~~] to the local health department, or, if none is maintained, to the Department for Health Services. Each certificate shall bear the name and address of the veterinarian [~~or qualified person~~] who issued it. The veterinarian [~~or qualified person~~] shall also furnish each owner with a metal tag bearing a serial number and [~~after January 1, 1980~~] the year of expiration of the immunization period. The tag may bear the name of the veterinarian [~~or qualified person~~] issuing it. It shall be affixed by the owner to a collar or harness furnished by him and shall be worn by the dog for which the certificate was issued. No one except the owner or his duly authorized agent shall remove the collar with the attached tag from the dog. Prior to their initial officially recorded vaccination against rabies all dogs shall be confined to the premises of the owner.

Section 3. KRS 258.043 is amended to read as follows:

(1) Whenever a local board of health determines or is notified by the Cabinet for Human Resources that the rabies immunization level among dogs is low in the county or any portion thereof, the local health department shall sponsor mass immunization clinics at strategic locations and intervals throughout the area designated. The local health department shall contract with local veterinarians to administer the vaccine.[~~; provided, however, that~~] If the services of ***the*** [~~such~~] veterinarians are not available in the area the local health department may contract with other veterinarians [~~or qualified persons~~] designated by the Cabinet for Human Resources. A reasonable fee not to exceed three dollars ($3.00), designated by the local board of health may be collected from each owner to help defray the cost of the clinic program.

(2) Vaccination and licensing procedures may be jointly conducted at ***the*** [~~such~~] clinics.

(3) No owner shall be required to have his dog vaccinated at a public clinic if he elects to have his dog vaccinated privately by a veterinarian of his choice.

HB 880, AN ACT relating to the tobacco farmer's revitalization program and making an appropriation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 4 of this Act:

(a) "Consumer price index" means the annual All Items Consumer Price Index for Urban Consumers published by the Bureau of Labor Statistics for the base period;

(b) "CPI adjusted price" means the average annual manufacturer's price per one thousand (1,000) cigarettes in the year preceding the base period adjusted to reflect the annual percentage change in the Consumer Price Index for the base period;

(c) "Real price increase" means the difference between the average manufacturers price and the CPI adjusted price from the base period for one thousand (1,000) cigarettes;

(d) "Revenue margin" means the real price increase multiplied by the numbers of one thousand (1,000) cigarettes sold by a manufacturer from the base period; and

(e) "Base period" means the calendar year preceeding the annual assessment of the tax.

(2) The average annual manufacturer's price per one thousand (1,000) cigarettes shall be determined and computed by the Revenue Cabinet from data acquired from sources the cabinet may choose and shall be specific to each manufacturer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

A cigarette manufacturer's tax shall be paid each year by resident and nonresident cigarette manufacturers on the cigarettes sold in the state in that year when the manufacturer's average price of cigarettes sold, excluding excise tax increases, exceeds the CPI adjusted price for that year according to the following schedule:

(1) If the real price increase exceeds the CPI adjusted price by less than five percent (5%), then the tax rate shall be five percent (5%) of the revenue margin;

(2) If the real price increase exceeds the CPI adjusted price by greater than five percent (5%) but less than ten percent (10%), then the tax rate shall be twenty percent (20%) of the revenue margin;

(3) If the real price increase exceeds the CPI adjusted price by greater than ten (10%) but less than fifteen percent (15%), then the tax rate shall be fifty percent (50%) of the revenue margin;

(4) If the real price increase exceeds the CPI adjusted price by greater than fifteen percent (15%), then the tax rate shall be eighty percent (80%) of the revenue margin.

SECTION 3. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The taxes imposed pursuant to Section 2 of this Act shall be payable to the Revenue Cabinet and shall be remitted in a manner prescribed by administrative regulation of the cabinet. The Revenue Cabinet shall monitor compliance with this section and shall have access to all records of cigarette sales for this purpose.

(2) Every licensed wholesaler or unclassified acquirer of cigarettes shall, by January 31 following the calendar year in which the evidence of tax payment has been affixed to packages of cigarettes as provided by KRS 138.146, file a report with the cabinet in a manner and on a form prescribed by the cabinet. The report shall provide the total amount of cigarette tax evidence affixed for each manufacturer for the calendar year in which the report is required.

(3) The cabinet shall, by the the following February 20, assess the cigarette manufacturer the tax imposed under Section 2 of this Act for each licensed wholesaler's or unclassified acquirer's report received.

(4) Each cigarette manufacturer shall, within ten (10) days of the date the cabinet is required under subsection (3) of this section to assess the tax on cigarette manufacturers, remit the tax.

(5) Effective January 1, 1993, and each year thereafter, the tax and the CPI adjusted price imposed by Section 2 of this Act shall be recalculated for a new base period.

SECTION 4. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The amounts derived from the collection of the tax shall be appropriated and used as follows:

(1) The Revenue Cabinet shall retain the amount needed for its expenses in levying and collecting the tax and monitoring compliance not to exceed one percent (1%) of the yearly revenues; and

(2) The balance of the moneys shall be deposited in the "Tobacco Farmers Revitalization Fund," to be administered by the Kentucky Agricultural Finance Corporation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) "The Tobacco Farmers Revitalization Fund" is created and shall receive funds from the manufacturer's tax imposed under Section 2 of this Act. The Agricultural Finance Corporation shall administer the fund and shall establish an advisory committee of interested parties to evaluate proposals and make recommendations for the awarding of funds. The Agricultural Finance Corporation in consultation with the advisory committee shall, by administrative regulation, establish procedures for administering the program and criteria for evaluating and awarding grants.

(2) The fund shall be used to make low-interest loans to assist tobacco farmers where a need can be shown according to criteria set up by the Agricultural Finance Corporation.

(3) Use of the fund shall be limited to the following:

(a) Construction of tobacco barns or curing structures;

(b) Purchase of equipment that will be used more than fifty percent (50%) of the time in tobacco production;

(c) Supplies used in the production of tobacco; and

(d) Other uses related to tobacco production that may be approved by the Agricultural Finance Corporation if money is available.

Section 6. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146 or 138.195, for which a specific penalty is not provided, shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) for the first offense; for each such subsequent offense he shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) and, if the offender is an individual, may be confined in the county jail for not more than six (6) months. These fines shall be in addition to the civil penalties provided by KRS 138.165, 138.185 and 138.205.

(2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) for the first offense; for each subsequent offense he shall be fined not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). These fines shall be in addition to any civil penalty provided by KRS 138.165, 138.185 and 138.205.

(3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder, shall be fined not more than one thousand dollars ($1,000). This fine shall be in addition to any civil penalty provided by KRS 138.165, 138.185 and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation or sale of cigarettes, and presents any such false entry to the cabinet or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a felony and shall be imprisoned in the penitentiary for not less than one (1) nor more than two (2) years.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a felony and imprisoned for not less than two (2) nor more than ten (10) years in the state penitentiary.

(6) Any person who sells, offers to sell or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a felony and imprisoned for not less than two (2) or more than ten (10) years in the state penitentiary.

(7) Any person who fails to remit gasoline or special fuel tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds, and shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both. Upon conviction of a second offense he shall be imprisoned for not less than one (1) year nor more than five (5) years in the state penitentiary.

(8) Any person who violates any of the provisions of KRS 138.300 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than six (6) months, or both. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year, or both. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) Any person who violates any of the provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000). If the offender is an individual, he may be imprisoned in the county jail for not more than six (6) months, or both so fined and imprisoned.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both.

(12) If any offender under the provisions of subsections (1) to (9), (11)***,*** [~~or~~] (16)***, or (19)*** of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned not exceeding one (1) year, or both, in the discretion of the court.

(14) Any person violating any provision of KRS 138.655 to 138.725 is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than nineteen dollars ($19) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months or by both such fine and imprisonment.

(15) In addition to the penalties provided in KRS 138.990(14), the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16) Any person violating KRS 138.175 shall be confined in the penitentiary not less than two (2) nor more than five (5) years.

(17) Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

(18) Any person who fails to supply the information required by subsection (2) of Section 3 of this Act shall be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) for the first offense; for each subsequent offense, he shall be fined not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500).

(19) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation or sale of cigarettes, and presents any such false entry to the cabinet or any of its agents with the intent to avoid the tax imposed by Section 2 of this Act, shall be guilty of a felony and shall be imprisoned in the penitentiary for not less than one (1) nor more than two (2) years, be fined up to the amount gained by avoidance of payment of the tax, or both.

Section 7. Moneys in the Tobacco Farmers Revitalization Fund are hereby appropriated for the purposes provided for in this Act and shall be treated as a continuing appropriation and shall not lapse at the end of the year.

Section 8. The effective date of this Act shall be January 1, 1993.

The Committee Amendment No. 1 to **HB 880** is as follows:

Amend printed copy of **HB 880** on page 5, line 19, after "Section 6." by inserting the following: "KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.280, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) "Secretary" means the secretary of the Revenue Cabinet of the Commonwealth of Kentucky.

(3) "Cabinet" means the Revenue Cabinet.

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes any manufacturer, distributor, jobber, sub-jobber as defined in KRS 138.130(11), broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale" and "wholesale sales" means and includes any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" means and includes any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. ***The cabinet, by administrative regulation, shall determine the cost of doing cigarette business by identifying and including any costs directly attributable to the sale and distribution of cigarettes in addition to the basic cost of cigarettes.*** [~~In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.~~]

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. ***The cabinet, by administrative regulation, shall determine the cost of doing cigarette business by identifying and including any costs directly attributable to the sale and distribution of cigarettes in addition to the basic cost of cigarettes.*** [~~In determining the cost of doing cigarette~~

~~business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.~~]

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 7.";

and by renumbering the following sections accordingly.

The Committee Title Amendment to **HB 880** is as follows:

Amend printed copy of **HB 880** by amending the title to read as follows: "AN ACT relating to tobacco and making an appropriation."

HCR 171, A CONCURRENT RESOLUTION directing the 1992-93 Interim Task Force on Small Business to study the small business climate in Kentucky.

WHEREAS, ninety-seven percent (97%) of Kentucky businesses have fewer than one hundred (100) employees and eighty-six percent (86%) of Kentucky businesses have fewer than twenty (20) employees; and

WHEREAS, small businesses employ over fifty percent (50%) of all private sector workers in Kentucky; and

WHEREAS, small businesses generate approximately eight hundred million dollars ($800,000,000) in state tax revenues annually; and

WHEREAS, small businesses give approximately two (2) out of every three (3) Kentuckians their first jobs; and

WHEREAS, it is important to maintain a healthy, vital, and growing small business community within the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. (1) The Interim Task Force on Small Business is directed to study the small business climate in Kentucky. The study shall include program and needs assessments in at least the following areas, but may be expanded at the direction of the task force:

(a) Tax adjustments and incentives for new businesses during their first two (2) years of operation;

(b) One-stop permitting for small businesses in Kentucky, including an evaluation of the activities of the Business Information Clearinghouse and the general business license provisions described in KRS 152.020(6) and KRS 152.950 to 152.991;

(c) Paperwork reduction, including ways to reduce the amount of paperwork required of Kentucky's small businesses by state government;

(d) Zoning adjustments of at least two (2) years to allow nonmanufacturing small businesses to incubate in the home of the owners;

(e) Loan programs for small businesses, including the possibility of creating a Kentucky Small Business Revolving Loan Fund within the Kentucky Development Finance Authority and an evaluation of the Commonwealth Small Business Development Corporation within the Economic Development Cabinet; and

(f) Small business management assistance programs available through both the Economic Development Cabinet and the Kentucky Small Business Development Center.

(2) The Revenue Cabinet, the Economic Development Cabinet, and other state agencies which have information vital to the completion of this study are directed to cooperate with and provide assistance to the task force in conducting the study.

Section 2. The Interim Task Force on Small Business shall submit a written report of their findings to the Legislative Research Commission, and the Interim Joint Committee on Economic Development, no later than September 1, 1993.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000). The staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 81, AN ACT relating to seeds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Agricultural seeds" means the seeds of Canada bluegrass, Kentucky bluegrass, brome-grass, fescues, millets, tall meadow oat grass, orchard grass, crested dog's tail, redtop, Italian ryegrass, perennial ryegrass, grain sorghums, sweet sorghums, Sudan grass, timothy, alfalfa, alsike clover, crimson clover, red clover, sweet clover, white clover, Canada field peas, Austrian peas, cowpeas, soybeans, vetches, lespedeza sp., buckwheat, flax, hemp, tobacco, rape, seed potatoes, barley, corn of all kinds, oats, rye, wheat, lettuce, peas, tomatoes, beans, onions, cabbage, carrots, melons and other truck cropseeds, grasses, cereals and legumes which are sold, offered or exposed for sale within this state for seeding purposes.

(2) "Certification" means the issuance, use or circulation of any certificate or any other instrument pertaining to seeds or plant parts intended for propagation or sale, or sold or offered for sale, in which the words "certified," "Kentucky state certified," "Kentucky certified," or similar words or phrases are employed, or in which are employed signs, symbols, maps, diagrams, pictures, words or phrases representing that such seeds or plant parts comply with the standards of requirements recommended or approved by the experiment station or by any department, office, agency or institution of the state.

(3) "Commissioner" means the Commissioner of Agriculture.

(4) "Concentrated commercial feeding stuff" includes linseed meals, corn and corncob meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers' grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat midlings, wheat shorts and other mill products, ground beef, fish scraps, mixed feeds, clover meal, alfalfa meal and feeds, pea-vine meal, cottonseed meal, velvet bean meal, feeds and meals mixed or unmixed, made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds.

(5) "Department" means the Department of Agriculture.

(6) "Director" means the director of the Agricultural Experiment Station ***or his designee.***

(7) "Noxious weed seeds" includes the seeds or bulblets of quackgrass (agropyron repens), dodder (cuscuta sp.), sorrel (rumex acetosella), buckhorn (plantago lanceolata), corncockle (agrostemma githago), wild onion (allium vineale), Canada thistle (cirsium arvense) and such other weeds as the director [~~or his agent~~] may from time to time determine to be noxious, but twelve (12) months' notice shall be given to the seed trade before any addition to the list of noxious weed seeds becomes effective.

(8) "Experiment station" means the Agricultural Experiment Station.

(9) "Weed seeds" means all seeds that are not agricultural seeds. It includes noxious weed seeds.

(10) "Conditioner" means any person who commercially dries, prepares mixtures or blends, cleans, scarifies, chemically treats, or performs other operations on seeds which could change the purity, germination, storage life, or field performance of the seed.

(11) "Wholesaler" means any person who sells, offers for sale, transports, or delivers for transportation seeds to retailers, or through other distribution channels.

(12) "Retailer" means any person who sells, offers for sale, transports, or delivers for transportation seeds to consumers. This includes persons who sell seeds as part of a lawn or turf establishment service.

(13) "Consumer" means any person who purchases or otherwise obtains seeds for sowing but not for resale.

(14) "Person" means any individual, firm, partnership, corporation, company, or association, and includes any trustee, receiver, or similar representative.

SECTION 2. A NEW SECTION OF KRS 250.020 TO 250.170 IS CREATED TO READ AS FOLLOWS:

(1) Every person selling or offering for sale, conditioning, mixing, or treating agricultural seeds for seeding purposes in Kentucky, except for agricultural seeds in one (1) pound containers or less or in one (1) pound bulk or less, shall obtain from the director an annual license by payment of a specified fee as follows:

(a) Retailer, ten dollars ($10);

(b) Wholesaler, fifty dollars ($50); or

(c) Conditioner, portable and stationary, fifty dollars ($50).

(2) A person who qualifies for more than one (1) of the categories in subsection (1) of this section shall pay the highest license fee.

(3) All licenses expire June 30 of each year.

(4) An application for a license shall be submitted to the director on a form provided by the director.

(5) The director is empowered to deny an application for a license or to suspend or revoke a license upon satisfactory evidence that the applicant or licensee used fraudulent or deceptive practices in the evasion or attempted evasion of the provisions of KRS 250.020 to 250.170 or any administrative regulation promulgated to implement the provisions of KRS 250.020 to 250.170. No license shall be denied, suspended, or revoked until the applicant or licensee is given the opportunity to appear for a hearing before the director.

(6) All license fees collected shall be used to implement the provisions of KRS 250.020 to 250.170.

Section 3. KRS 250.030 is amended to read as follows:

(1) Agricultural seeds or mixtures of seeds shall be exempt from KRS 250.020 to 250.170 when:

(a) Possessed, exposed for sale or sold for food or feed purposes only;

(b) Sold to merchants to be recleaned before being sold or exposed for sale for seeding purposes;

(c) In store for the purpose of recleaning, and not possessed, sold or offered for sale for seeding purposes; ***or*** [~~and~~]

(d) The seed is grown, sold and delivered by a producer on his own premises to the purchaser himself. If, however, the seed is advertised for sale by the public press, circular or catalogue or if the seed is delivered by a common carrier, the seed and the seller shall be subject to KRS 250.020 and 250.170.

Section 4. KRS 250.040 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, every lot of agricultural seeds, when in bulk or a container of one (1) pound or more, or in the case of tobacco seed of one-twelfth (1/12) ounce or more, shall have affixed, in a conspicuous place on the exterior of the container of the seeds, a label in plainly written or printed English, in a manner prescribed by the director, stating:

(a) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. Provided, that the director may by regulation omit the requirement for variety designation, ***except for soybeans which shall be labeled by variety,*** for those kinds of seeds not commonly sold by variety name, and if the person labeling the seed does not know and is unable to determine the variety, the term "Variety Unknown" may be used in lieu of the variety designation. Hybrids shall be labeled as hybrids;

(b) Lot number or other lot identification;

(c) Percentage by weight of all weed seeds;

(d) Percentage by weight of inert matter;

(e) Percentage by weight of agricultural seeds other than those required to be on the label;

(f) The name and rate of occurrence per pound of noxious weed seed present; [~~and~~]

(g) For each named agricultural seed;

1. Percentage of germination, exclusive of hard seed;

2. Percentage of hard seeds, if present;

3. Origin, state or foreign country, if known. If the origin is unknown, this fact shall be stated; ***and***

4. The calendar month and year in which the germination test was completed; and

(h)[~~5.~~] Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

(2) The seal of certification of the Kentucky Seed Improvement Association approved by the director of the Kentucky Agricultural Experiment Station shall be accepted in lieu of the written or printed tag or label required herein.

(3) It shall be unlawful to sell or offer for sale in Kentucky tobacco seed ***or winter rape (Canola) seed*** for seeding purposes unless the seed has been certified by the Kentucky Seed Improvement Association or by the agency responsible for certification in the state, province, or country where the seed originated, and then only when the standards there are in no way lower than those of the Kentucky Seed Improvement Association, except as provided in KRS 250.030.

SECTION 5. A NEW SECTION OF KRS 250.020 TO 250.170 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful in Kentucky to sell, expose or offer for sale, or advertise for sale by variety name agricultural seeds not certified by an official seed-certifying agency if it is a variety for which a certificate of plant variety protection under the Federal Plant Variety Protection Act, 7 U.S.C. sec. 2321, et seq., specifies sale only as a class of certified seed. Agricultural seeds from a certified lot may be labeled by variety name if used in a mixture with the approval of the owner of the variety.

Section 6. KRS 250.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 250.020 to 250.170 shall be fined not less than ***two hundred fifty dollars ($250)*** [~~twenty-five dollars ($25)~~], nor more than ***five*** [~~one~~] hundred dollars ***($500)*** [~~($100)~~].

(2) Any person who violates any of the provisions of KRS 250.180 to 250.230 or the provisions of KRS 250.371 to 250.451 shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500).

(3) Any person convicted of violating any of the provisions of KRS 250.491 to 250.631 or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said director or his duly authorized agent in performance of his duty in connection with the provisions of KRS 250.491 to 250.631, shall be adjudged guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500) for each violation.

(4) Any person who violates subsection (5) of KRS 250.601 shall be guilty of a misdemeanor and shall on conviction thereof be fined not less than two hundred and fifty dollars ($250).

The Committee Substitute to **SB 81** is as follows:

SB 81, AN ACT relating to seeds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Agricultural seeds" means the seeds of Canada bluegrass, Kentucky bluegrass, brome-grass, fescues, millets, tall meadow oat grass, orchard grass, crested dog's tail, redtop, Italian ryegrass, perennial ryegrass, grain sorghums, sweet sorghums, Sudan grass, timothy, alfalfa, alsike clover, crimson clover, red clover, sweet clover, white clover, Canada field peas, Austrian peas, cowpeas, soybeans, vetches, lespedeza sp., buckwheat, flax, hemp, tobacco, rape, seed potatoes, barley, corn of all kinds, oats, rye, wheat, lettuce, peas, tomatoes, beans, onions, cabbage, carrots, melons and other truck cropseeds, grasses, cereals and legumes which are sold, offered or exposed for sale within this state for seeding purposes.

(2) "Certification" means the issuance, use or circulation of any certificate or any other instrument pertaining to seeds or plant parts intended for propagation or sale, or sold or offered for sale, in which the words "certified," "Kentucky state certified," "Kentucky certified," or similar words or phrases are employed, or in which are employed signs, symbols, maps, diagrams, pictures, words or phrases representing that such seeds or plant parts comply with the standards of requirements recommended or approved by the experiment station or by any department, office, agency or institution of the state.

(3) "Commissioner" means the Commissioner of Agriculture.

(4) "Concentrated commercial feeding stuff" includes linseed meals, corn and corncob meals, cocoanut meals, gluten feeds, gluten meals, germ feeds, corn feeds, starch feeds, sugar feeds, dried brewers' grains, malt sprouts, dried distillers' grains, dried beet refuse, hominy feeds, cerealine feeds, rice meals, rice bran, rice polish, peanut meals, oat feeds, corn and oat feeds, corn bran, wheat bran, wheat midlings, wheat shorts and other mill products, ground beef, fish scraps, mixed feeds, clover meal, alfalfa meal and feeds, pea-vine meal, cottonseed meal, velvet bean meal, feeds and meals mixed or unmixed, made from seeds or grains, and all materials of similar nature used for food for domestic animals, condimental feeds, poultry feeds, stock feeds, patented proprietary or trade and market stock and poultry feeds.

(5) "Department" means the Department of Agriculture.

(6) "Director" means the director of the Agricultural Experiment Station ***or his designee***.

(7) "Noxious weed seeds" includes the seeds or bulblets of quackgrass (agropyron repens), dodder (cuscuta sp.), sorrel (rumex acetosella), buckhorn (plantago lanceolata), corncockle (agrostemma githago), wild onion (allium vineale), Canada thistle (cirsium arvense) and such other weeds as the director [~~or his agent~~] may from time to time determine to be noxious, but twelve (12) months' notice shall be given to the seed trade before any addition to the list of noxious weed seeds becomes effective.

(8) "Experiment station" means the Agricultural Experiment Station.

(9) "Weed seeds" means all seeds that are not agricultural seeds. It includes noxious weed seeds.

Section 2. KRS 250.030 is amended to read as follows:

(1) Agricultural seeds or mixtures of seeds shall be exempt from KRS 250.020 to 250.170 when:

(a) Possessed, exposed for sale or sold for food or feed purposes only;

(b) Sold to merchants to be recleaned before being sold or exposed for sale for seeding purposes;

(c) In store for the purpose of recleaning, and not possessed, sold or offered for sale for seeding purposes; ***or*** [~~and~~]

(d) The seed is grown, sold and delivered by a producer on his own premises to the purchaser himself. If, however, the seed is advertised for sale by the public press, circular or catalogue or if the seed is delivered by a common carrier, the seed and the seller shall be subject to KRS 250.020 and 250.170.

Section 3. KRS 250.040 is amended to read as follows:

(1) Except as provided in subsections (2) and (3) of this section, every lot of agricultural seeds, when in bulk or a container of one (1) pound or more, or in the case of tobacco seed of one-twelfth (1/12) ounce or more, shall have affixed, in a conspicuous place on the exterior of the container of the seeds, a label in plainly written or printed English, in a manner prescribed by the director, stating:

(a) The name of the kind and variety for each agricultural seed component present in excess of five percent (5%) of the whole and the percentage by weight of each. Provided, that the director may by regulation omit the requirement for variety designation for those kinds of seeds not commonly sold by variety name, and if the person labeling the seed does not know and is unable to determine the variety, the term "Variety Unknown" may be used in lieu of the variety designation. Hybrids shall be labeled as hybrids;

(b) Lot number or other lot identification;

(c) Percentage by weight of all weed seeds;

(d) Percentage by weight of inert matter;

(e) Percentage by weight of agricultural seeds other than those required to be on the label;

(f) The name and rate of occurrence per pound of noxious weed seed present; [~~and~~]

(g) For each named agricultural seed;

1. Percentage of germination, exclusive of hard seed;

2. Percentage of hard seeds, if present;

3. Origin, state or foreign country, if known. If the origin is unknown, this fact shall be stated; ***and***

4. The calendar month and year in which the germination test was completed; and

(h)[~~5.~~] Name and address of the person who labeled the seed, or who sells, offers, or exposes the seed for sale within this state.

(2) The seal of certification of the Kentucky Seed Improvement Association approved by the director of the Kentucky Agricultural Experiment Station shall be accepted in lieu of the written or printed tag or label required herein.

(3) It shall be unlawful to sell or offer for sale in Kentucky tobacco seed ***or winter rape (Canola) seed*** for seeding purposes unless the seed has been certified by the Kentucky Seed Improvement Association or by the agency responsible for certification in the state, province, or country where the seed originated, and then only when the standards there are in no way lower than those of the Kentucky Seed Improvement Association, except as provided in KRS 250.030.

(4) All soybean seed shall be labeled by variety name.

SECTION 4. A NEW SECTION OF KRS 250.020 TO 250.170 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful in Kentucky to sell, expose or offer for sale, or advertise for sale by variety name agricultural seeds not certified by an official seed-certifying agency if it is a variety for which a certificate of plant variety protection under the Federal Plant Variety Protection Act, 7 U.S.C. sec. 2321, et seq., specifies sale only as a class of certified seed. Agricultural seeds from a certified lot may be labeled by variety name if used in a mixture with the approval of the owner of the variety.

SECTION 5. A NEW SECTION OF KRS 250.020 to 250.170 IS CREATED TO READ AS FOLLOWS:

In emergency situations, the director shall have authority to reduce the certification requirements for seeds to ensure adequate supplies of seed to Kentucky farmers.

Section 6. KRS 250.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 250.020 to 250.170 shall be fined not less than ***two hundred fifty dollars ($250)*** [~~twenty-five dollars ($25)~~], nor more than ***five*** [~~one~~] hundred dollars ***($500)*** [~~($100)~~].

(2) Any person who violates any of the provisions of KRS 250.180 to 250.230 or the provisions of KRS 250.371 to 250.451 shall be fined not less than one hundred dollars ($100), nor more than five hundred dollars ($500).

(3) Any person convicted of violating any of the provisions of KRS 250.491 to 250.631 or who shall impede, hinder, or otherwise prevent, or attempt to prevent, said director or his duly authorized agent in performance of his duty in connection with the provisions of KRS 250.491 to 250.631, shall be adjudged guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500) for each violation.

(4) Any person who violates subsection (5) of KRS 250.601 shall be guilty of a misdemeanor and shall on conviction thereof be fined not less than two hundred and fifty dollars ($250).

The Committee on Banking and Insurance reported **HB 850**, **SB 108**, with Committee Amendment attached thereto, **SB 139**, **SB 212**, **SB 213** and **SB 214** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 850, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.99-060 is amended to read as follows:

(1) The owner of any vehicle who fails to have in full force and effect the security required by Subtitle 39 of this chapter shall:

(a)[~~(1)~~] Be fined not less than ***two*** [~~five~~] hundred dollars ***($200)*** [~~($500)~~] nor more than one thousand dollars ($1,000);

(b)[~~(2)~~] Have ***his operator's license and*** the license plates of ***the*** [~~such~~] vehicle suspended for a period of one (1) year or until ***the*** [~~such~~] time ***a Uniform Financial Responsibility*** SR-22 Form, approved for use by the commissioner, is filed with the court, as proof[~~, in a form satisfactory to the commissioner, is furnished~~] that ***the*** [~~such~~] security is then and will remain in effect ***for one (1) year***; and

(c)[~~(3)~~] For the second and each subsequent offense within any five (5) year period, have his operator's license revoked in accordance with KRS 186.560.

(2) (a) Operator licenses suspended pursuant to this section shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records and other appropriate information to the Transportation Cabinet. No court shall waive or stay this procedure.

(b) If a person whose operator's license is suspended fails to surrender it to the court upon conviction as required in paragraph (a) of this subsection, the court shall issue an order directing the sheriff or any other peace officer to seize the license and deliver it to the court.

Section 2. KRS 187.310 is amended to read as follows:

The cabinet shall, upon request, furnish any person a certified abstract of the operating record of any person subject to the provisions of KRS 187.290 to 187.620, which abstract shall also fully designate the motor vehicles, if any, registered in the name of ***the*** [~~such~~] person.[~~, and~~] If there ***is*** [~~shall be~~] no record of any conviction of ***the*** [~~such~~] person of violating any law relating to the operation of a motor vehicle or of any ***accident,*** injury***,*** or damage caused by such person, the department shall so certify. The certified abstract shall not include information concerning any violation of the law, ***accident,*** injury, or damage which occurred earlier than three years prior to the request. ***The*** [~~Such~~] abstracts shall not be admissible as evidence in any action for damages or criminal proceedings arising out of a motor vehicle accident. [~~The certified abstract shall not include accident reports filed with the Department of State Police under KRS 189.635 and the cabinet shall not furnish to any person the accident report of a driver other than himself.~~] This section shall ***not*** [~~in no way~~] preclude the right of any court of law, law enforcement officer, or attorney representing the individual affected from securing full and complete information concerning the record of that individual.

SB 108, AN ACT relating to home ownership savings accounts in financial institutions.

WHEREAS, the General Assembly of the Commonwealth of Kentucky hereby finds, declares, and recognizes that the general welfare and well-being of the Commonwealth is directly related to the ability of the citizens of this state to realize the dream of home ownership; and

WHEREAS, the General Assembly finds, declares, and recognizes that affordable housing for residents is becoming increasingly difficult to attain; and

WHEREAS, the General Assembly further finds that the increased demand by mortgage lenders for a greater amount of money as a down payment on a home and the associated closing costs are significant barriers to home ownership for many citizens of this state; and

WHEREAS, the General Assembly declares that it is the intent of the Commonwealth of Kentucky to create a home ownership savings account to provide citizens of this state a method of accumulating funds sufficient to make a down payment and pay associated closing costs on a home that they otherwise would not be able to purchase;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, unless the context requires otherwise:

(1) "Account" or "Kentucky Home Ownership Savings Account" means an interest-bearing home ownership savings account created or organized in the Commonwealth of Kentucky for the exclusive benefit of saving money to make a down payment and pay associated closing costs on the purchase of an eligible home, or to pay loan origination costs associated with the construction of an eligible home;

(2) "Collectibles" means art works, rugs, antiques, metals, gems, stamps, coins, alcoholic beverages, and other items of tangible personal property as specified by the United States Secretary of the Treasury under the Internal Revenue Code;

(3) "Financial institution" means a bank, a savings and loan association, or a credit union chartered by the Commonwealth of Kentucky or the United States government;

(4) "Domicile" means a resident's true, fixed, and permanent residence within the Commonwealth of Kentucky;

(5) "Eligible home" means:

(a) A primary domicile for a resident; or

(b) A secondary domicile for a resident that is to be used by the resident for his personal use and not as rental or investment property, but a secondary domicile shall not be a houseboat or a recreational vehicle;

(6) "Resident" means an individual who is domiciled within the Commonwealth of Kentucky and is a legal resident of the Commonwealth for income tax purposes;

(7) "Year of purchase" means the year in which a home purchase is closed;

(8) "Prorated tax deduction" means the total number of months principal and interest has resided in a Kentucky Home Ownership Savings Account divided by twelve (12) and rounded to the next highest whole number; and

(9) "Eligible year" means each year for which the deduction is allowable as provided in subsection (8) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created a program of the Commonwealth to be known as the Kentucky Home Ownership Savings Account Program. The purpose of Sections 1 to 4 of this Act is to provide an incentive for the purchase of eligible housing by offering to residents of the Commonwealth up to twenty-five thousand dollars ($25,000) in prorated tax deductions for each eligible year following the purchase of a home in this Commonwealth. The purpose of Sections 1 to 4 of this Act is to create an account exempt from Kentucky income tax in order to help residents save money for the down payment and associated closing costs for the purchase or construction of an eligible home. All financial institutions within the Commonwealth are urged to offer and accept Kentucky Home Ownership Savings Accounts to ensure wide access for residents to the benefits provided in Sections 1 to 4 of this Act.

(2) A financial institution may accept cash deposits on behalf of a resident to create an account. When creating an account, a resident shall inform the financial institution in writing of a specified length of time that deposits shall be made to the account. Deposits may be made for a period of no less than one (1) year and no longer than five (5) years from the date the account was created. Deposits shall not exceed twenty-five thousand dollars ($25,000). Deposits shall be made in monthly installments, a lump-sum payment, or a combination of monthly installments and a lump-sum payment. A resident shall be prohibited from maintaining more than one (1) account, and from borrowing funds to deposit to the account.

(3) The assets of an account shall not be:

(a) Commingled with other property except by a financial institution in a common trust fund or common investment fund;

(b) Invested in collectibles by either the financial institution or the resident;

(c) Pledged as security for any loan by either the financial institution or the resident; or

(d) Borrowed by a resident.

(4) Except as provided in subsection (8) of this section, interest earned on deposits paid into an account shall not be subject to Kentucky income tax.

(5) If a resident withdraws any amount from his account prior to the final deposit date the resident agreed to when creating the account, the resident shall forfeit two percent (2%) of the interest earned on the deposits to the account and be subject to the penalties provided in subsection (8) of this section. Interest forfeited pursuant to this subsection shall be paid by the financial institution to the Commonwealth of Kentucky.

(6) Upon passage of the specified length of time provided in subsection (2) of this section, a resident, upon written request, shall have an additional six (6) month grace period within which to purchase or execute a contract to begin construction of an eligible home.

(7) When the term of the home ownership savings account has expired, or upon expiration of the six (6) month grace period, the resident shall provide the financial institution written documentation that demonstrates to the satisfaction of the financial institution that the assets of the account will be used to purchase or construct an eligible home. Upon receipt of the written documentation, the financial institution shall immediately release all assets of the account to the resident.

(8) (a) If a resident fails to provide written documentation that demonstrates to the satisfaction of the financial institution that the assets of an account will be used to purchase or construct an eligible home, he shall be subject to the following penalties:

1. The financial institution shall release the assets of the account to the resident less the forfeiture of ten percent (10%) of the interest earned on the account. Interest forfeited pursuant to this subsection shall be paid by the financial institution to the Commonwealth of Kentucky; and

2. The resident shall be subject to the payment of taxes, penalties, and interest on the principal and interest earned on the account, as determined by the Kentucky Revenue Cabinet.

(b) There shall be no liability on the part of, and no cause of action of any nature shall arise against, a financial institution for retaining ten percent (10%) of the interest earned on the account and paying it to the Commonwealth in compliance with this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

The financial institution shall request and the resident shall provide to the financial institution any information the financial institution deems necessary to prepare any reports required under the Internal Revenue Code. The financial institution shall submit reports to the Internal Revenue Service and the resident as required by the Internal Revenue Service.

SECTION 4. A NEW SECTION OF KRS CHAPTER 287 IS CREATED TO READ AS FOLLOWS:

The implementation of the Kentucky Home Ownership Savings Account Program as provided in Sections 1 to 4 of this Act constitutes a valid and vital public purpose for which public funds of the Commonwealth may be expended.

Section 5. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1989, exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section 63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and tier I railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990; [~~and~~]

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam; ***and***

(i) Exclude Kentucky Home Ownership Savings Accounts created under Sections 1 to 4 of this Act, except as provided in subsection (8) of Section 2 of this Act.

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals

by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), and (q) of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

SECTION 6. A NEW SECTION OF KRS CHAPTER 290 IS CREATED TO READ AS FOLLOWS:

A credit union may offer and accept Kentucky Home Ownership Savings Accounts as provided in Sections 1 to 4 of this Act.

The Committee Amendment No. 1 to **SB 108** is as follows:

Amend printed copy of **SB 108/GA** on page 3, line 23, by deleting "***The***"; and

On page 3, by deleting lines 24, 25, and 26 in their entirety; and

On page 4, by deleting line 1 in its entirety; and

On page 4, line 2, by deleting "***eligible home.***".

SB 139, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.14-040 is amended to read as follows:

(1) ***An employer or the employer's trustee may procure and effect an insurance contract upon the life or body of an employee for the purpose of funding a pension or other benefit plan established for the employee of the employer. No employer, nor employer's trustee, shall procure or cause to be procured any insurance contract on the life or body of an employee unless the benefits under the contract are payable to and utilized by an employee pension or other benefit plans. Nothing in this subsection shall be construed to require the employer or the employer's trustee to use or designate the benefits of any employee insurance contract for the specific benefit of the estate of the particular insured on whose life or body the insurance contract producing the benefits was procured.***

(2) Any individual of competent legal capacity may procure or effect an insurance contract upon his own life or body for the benefit of any person. No person shall procure or cause to be procured any insurance contract upon the life or body of another individual unless the benefits under such contract are payable to the individual insured or his personal representatives, or to a person having, at the time when such contract was made, an insurable interest in the individual insured.

(3)[~~(2)~~] If the beneficiary, assignee or other payee under any contract made in violation of this section receives from the insurer any benefits thereunder accruing upon the death, disablement or injury of the individual insured, the individual insured or his executor or administrator, as the case may be, may maintain an action to recover such benefits from the person so receiving them.

(4)[~~(3)~~] "Insurable interest" as to such personal insurance means that every individual has an insurable interest in the life, body and health of himself, and of other persons as follows:

(a) In the case of individuals related closely by blood or by law, a substantial interest engendered by love and affection;

(b) In the case of other persons, a lawful and substantial economic interest in having the life, health, or bodily safety of the individual insured continue, as distinguished from an interest which would arise only by, or would be enhanced in value by, the death, disablement or injury of the individual insured; and

(c) An individual heretofore or hereafter party to a contract or option for the purchase or sale of an interest in a business partnership or firm, or of shares of stock of a close corporation or of an interest in such shares, has an insurable interest in the life, health or bodily safety of each individual party to such contract for the purpose of such contract only, in addition to any insurable interest which may otherwise exist as to such individual.

(5)[~~(4)~~] An insurer shall be entitled to rely upon all statements, declarations and representations made by an ***individual*** applicant for insurance relative to the insurable interest of the applicant in the insured; and no insurer shall incur legal liability except as set forth in the policy, by virtue of any untrue statements, declarations or representations so relied upon in good faith by the insurer.

Section 2. KRS 304.16-170 is amended to read as follows:

(1) There shall be a provision that any sum becoming due by reason of the death of the individual insured shall be payable to the beneficiary designated by such individual, subject to the provisions of the policy in the event there is no designated beneficiary, as to all or any part of such sum, living at the death of the individual insured and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay, at its option a part of such sum not exceeding $500 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the individual insured.

(2) In the case of a group life insurance policy issued to an employer or the employer's trustee of a pension or other benefit plans established by an employer for the benefit of the employer's employees, there may be a provision in the policy that any sum becoming due by reason of the death of any insured shall be payable to the trustees of the pension or other benefit plan or fund.

SB 212, AN ACT relating in insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context requires otherwise:

(1) "Actuary" means a person who is a member in good standing of the American Academy of Actuaries;

(2) "Controlling person" means any person, firm, association, or corporation who directly or indirectly has the power to direct or cause to be directed the management, control, or activities of the reinsurance intermediary;

(3) "Insurer" means any person, firm, association, or corporation duly authorized by the commissioner pursuant to the applicable provisions of this chapter as an insurer;

(4) "Licensed producer" means an agent, surplus lines broker, or reinsurance intermediary licensed pursuant to the applicable provisions of this chapter;

(5) "Reinsurance intermediary" means a reinsurance intermediary broker or a reinsurance intermediary-manager as defined in subsections (6) and (7) of this section;

(6) "Reinsurance intermediary broker" means any person, other than an officer or employee of the ceding insurer, firm, association, or corporation who solicits, negotiates, or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of the insurer;

(7) "Reinsurance intermediary manager" means any person, firm, association, or corporation who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer (including the management of a separate division, department, or underwriting office) and acts as an agent for a reinsurer whether known as a reinsurance intermediary manager, manager, or by other similar term. However, the following persons shall not be considered a reinsurance intermediary manager with respect to the reinsurer for the purposes of Sections 1 to 12 of this Act:

(a) An employee of the reinsurer;

(b) A United States manager of the United States branch of an alien reinsurer;

(c) An underwriting manager which, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to Subtitle 37 of KRS Chapter 304, and whose compensation is not based on the volume of premiums written; or

(d) The manager of a group, association, pool, or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the insurance regulatory official of the state in which the manager's principal business office is located;

(8) "Reinsurer" means any person, firm, association, or corporation duly authorized in Kentucky pursuant to this chapter as an insurer with the authority to assume reinsurance;

(9) "To be in violation" means that the reinsurance intermediary, insurer, or reinsurer for whom the reinsurance intermediary was acting failed to comply substantially with the provisions of Sections 1 to 12 of this Act; and

(10) "Qualified United States financial institution" means an institution that:

(a) Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

(b) Is regulated, supervised, and examined by the United States government or state authorities having regulatory authority over banks and trust companies; and

(c) Has been determined by either the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

SECTION 2. A NEW SECTION OF SUBTITLE 9 of KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No person, firm, association, or corporation shall act as a reinsurance intermediary broker in this state if the reinsurance intermediary broker maintains an office either directly or as a member of an employee of a firm or association, or an officer, director, or employee of a corporation:

(a) In this state, unless the reinsurance intermediary broker is a licensed producer in this state; or

(b) In another state, unless the reinsurance intermediary broker is a licensed producer in this state or another state having a law substantially similar to Sections 1 to 12 of this Act or the reinsurance intermediary broker is licensed in Kentucky as a nonresident reinsurance intermediary.

(2) No person, firm, association, or corporation shall act as a reinsurance intermediary manager:

(a) For a reinsurer domiciled in Kentucky, unless the reinsurance intermediary manager is a licensed producer in Kentucky;

(b) In Kentucky, if the reinsurance intermediary manager maintains an officer, either directly or as a member or employee of a firm or association, or an officer, director, or employee of a corporation in Kentucky, unless the reinsurance intermediary manager is a licensed producer in this state; or

(c) In another state for a nondomestic insurer, unless the reinsurance intermediary manager is a licensed producer in Kentucky or another state having a law substantially similar to Sections 1 to 12 of this Act or the person is licensed in Kentucky as a nonresident reinsurance intermediary.

(3) The commissioner may require a reinsurance intermediary manager subject to subsection (2) of this section to:

(a) File a bond in an amount from an insurer authorized to do business in Kentucky for the protection of the reinsurer; and

(b) Maintain an errors and omissions insurance policy issued by an insurer authorized to do business in Kentucky in an amount acceptable to the commissioner.

(4) (a) The commissioner may issue a reinsurance intermediary license to any person, firm, association, or corporation who has complied with the requirements of Sections 1 to 12 of this Act. The license issued to a firm or association shall permit all members of the firm or association and any designated employees to act as reinsurance intermediaries under the license, and all persons shall be named in the application and any changes shall be filed in writing with the commissioner. The license issued to a corporation shall permit all of the officers, and any designated employees and directors thereof, to act as reinsurance intermediaries on behalf of the corporation, and all persons shall be named in the application and any changes shall be filed in writing with the commissioner.

(b) If the applicant for a reinsurance intermediary license is a nonresident, the applicant, as a condition precedent to receiving or holding a license, shall designate the Secretary of State as agent for service of process in the manner, and with the same legal effect, provided for by this chapter for designation of service of process upon unauthorized insurers, and shall furnish the commissioner with the name and address of a resident of Kentucky upon whom notices or orders of the commissioner or process affecting the nonresident reinsurance intermediary may be served. The reinsurance intermediary shall promptly notify the commissioner in writing of every change in the person designated to receive notices or orders of the commissioner or process, and the change shall not become effective until acknowledged by the commissioner.

(5) The commissioner may refuse to issue a reinsurance intermediary license if, in his judgment, the applicant, anyone named on the application, or any member, principal, officer, or director of the applicant is not trustworthy or of good reputation, or that any controlling person of the applicant is not trustworthy to act as a reinsurance intermediary, or that any of the foregoing persons have given cause for revocation or suspension of the license, or has failed to comply with any prerequisite for the issuance of the license.

(6) Licensed attorneys at law of Kentucky, when acting in their professional capacity as such, shall be exempt from this section.

SECTION 3. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Transactions between a reinsurance intermediary broker and the insurer it represents in that capacity shall only be entered into pursuant to a written authorization specifying the responsibilities of each party. The authorization shall, at a minimum, contain provisions that:

(1) The insurer may terminate the reinsurance intermediary broker's authority at any time;

(2) The reinsurance intermediary broker shall render accounts to the insurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing, to the reinsurance intermediary broker, and remit all funds due to the insurer within thirty (30) days of receipt;

(3) All funds collected for the insurer's account shall be held by the reinsurance intermediary broker in a fiduciary capacity in a bank which is a qualified United States financial institution;

(4) The reinsurance intermediary broker shall comply with Section 4 of this Act;

(5) The reinsurance intermediary broker shall comply with the written standards established by the insurer for the cession or retrocession of all risks; and

(6) The reinsurance intermediary broker shall disclose to the insurer any relationship with any reinsurer to which business will be ceded or retroceded.

SECTION 4. A NEW SECTION TITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For at least ten (10) years after expiration of each contract of reinsurance transacted by the reinsurance intermediary broker, the reinsurance intermediary broker shall keep a complete record for each transaction showing:

(a) The type of contract, limits, underwriting restrictions, classes or risks, and territory;

(b) Period of coverage, including effective and expiration dates, cancellation provisions, and notice required for cancellation;

(c) Reporting and settlement requirements of balances;

(d) Rate used to compute the reinsurance premium;

(e) Names and addresses of assuming reinsurers;

(f) Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary broker;

(g) Related correspondence and memoranda;

(h) Proof of placement;

(i) Details regarding retrocessions handled by the reinsurance intermediary broker, including the identity of retrocessionaires and percentage of each contract assumed or ceded;

(j) Financial records, including, but not limited to, premium and loss accounts; and

(k) When the reinsurance intermediary broker procures a reinsurance contract on behalf of an authorized ceding insurer:

1. Directly from any assuming reinsurer written evidence that the assuming reinsurer has agreed to assume the risk; or

2. If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative;

(2) The insurer shall have access to and the right to copy and audit all accounts and records maintained by the reinsurance intermediary broker related to its business in a form usable by the insurer.

SECTION 5. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) An insurer shall not engage the services of any person, firm, association, or corporation to act as a reinsurance intermediary broker on its behalf unless the person is licensed as required by subsection (1) of Section 2 of this Act.

(2) An insurer shall not employ an individual who is employed by a reinsurance intermediary broker with which it transacts business, unless the reinsurance intermediary broker is under common control with the insurer and is subject to Subtitle 37 of KRS Chapter 304.

(3) The insurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary broker with which it transacts business.

SECTION 6. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Transactions between a reinsurance intermediary manager and the reinsurer it represents in such capacity shall only be entered into pursuant to a written contract, specifying the responsibilities of each party, which shall be approved by the reinsurer's board of directors. At least thirty (30) days before the reinsurer assumes or cedes business through such producer, a true copy of the contract approved by the reinsurer's board of directors shall be filed with the commissioner for approval. The contract shall, at a minimum, contain provisions that:

(1) The reinsurer may terminate the contract for cause upon written notice to the reinsurance intermediary manager. The reinsurer may suspend the authority of the reinsurance intermediary manager to assume or cede business during the pendency of any dispute regarding the cause for termination;

(2) The reinsurance intermediary manager shall render accounts to the reinsurer accurately detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the reinsurance intermediary manager, and remit all funds due under the contract to the reinsurer on not less than a monthly basis;

(3) All funds collected for the reinsurer's account shall be held by the reinsurance intermediary manager in a fiduciary capacity in a bank which is a qualified United States financial institution. The reinsurance intermediary manager may retain no more than three (3) months estimated claims payment and allocated loss adjustment expenses. The reinsurance intermediary manager shall maintain a separate bank account for each reinsurer that it represents;

(4) For at least ten (10) years after expiration of each contract of reinsurance transacted by the reinsurance intermediary manager, the reinsurance intermediary manager shall keep a complete record for each transaction showing:

(a) The type of contract, limits, underwriting restrictions, classes or risks, and territory;

(b) Period of coverage, including effective and expiration dates, cancellation provisions and notice required for cancellation; and disposition of outstanding reserves on covered risks;

(c) Reporting and settlement requirements of balances;

(d) Rate used to compute the reinsurance premium;

(e) Names and addresses of reinsurers;

(f) Rates of all reinsurance commissions, including the commissions on any retrocessions handled by the reinsurance intermediary manager;

(g) Related correspondence and memoranda;

(h) Proof of placement;

(i) Details regarding retrocessions handled by the reinsurance intermediary manager, as permitted by subsection (4) of Section 8 of this Act, including the identity of retrocessionaires and percentage of each contract assumed or ceded;

(j) Financial records, including, but not limited to, premium and loss accounts; and

(k) When the reinsurance intermediary manager places a reinsurance contract on behalf of a ceding insurer:

1. Directly from any assuming reinsurer, written evidence that the assuming reinsurer has agreed to assume the risk; and

2. If placed through a representative of the assuming reinsurer, other than an employee, written evidence that the reinsurer has delegated binding authority to the representative;

(5) The reinsurer shall have access to and the right to copy all accounts and records maintained by the reinsurance intermediary manager related to its business in a form usable by the reinsurer;

(6) The contract shall not be assigned in whole or in part by the reinsurance intermediary manager;

(7) The reinsurance intermediary manager shall comply with the written underwriting and rating standards established by the insurer for the acceptance, rejection, or cession of all risks;

(8) Set forth the rates, terms, and purposes of commissions, charges, and other fees which the reinsurance intermediary manager may levy against the reinsurer;

(9) If the contract permits the reinsurance intermediary manager to settle claims on behalf of the reinsurer:

(a) All claims shall be reported to the reinsurer in a timely manner;

(b) A copy of the claim file shall be sent to the reinsurer at its request or as soon as it becomes known that the claim:

1. Has the potential to exceed the lesser of an amount determined by the commissioner or the limit set by the reinsurer;

2. Involves a coverage dispute;

3. May exceed the reinsurance intermediary manager's claims settlement authority;

4. Is open for more than six (6) months; or

5. Is closed by payment of the lesser of an amount set by the commissioner or an amount set by the reinsurer;

(c) All claim files shall be the joint property of the reinsurer and the reinsurance intermediary manager. However, upon an order of liquidation of the reinsurer, the files shall become the sole property of the reinsurer or its estate, but the reinsurance intermediary manager shall have reasonable access to and the right to copy the files; and

(d) Any settlement authority granted to the reinsurance intermediary manager may be terminated for cause upon the reinsurer's written notice to the reinsurance intermediary manager or upon the termination of the contract. The reinsurer may suspend the settlement authority during the pendency of the dispute regarding the cause of termination;

(10) If the contract provides for a sharing of interim profits by the reinsurance intermediary manager, that the interim profits shall not be paid until one (1) year after the end of each underwriting period for property business and five (5) years after the end of each underwriting period for casualty business, or a later period set by the commissioner for specified lines of insurance, and not until the adequacy of reserves on remaining claims has been verified pursuant to subsection (3) of Section 8 of this Act;

(11) The reinsurance intermediary manager shall annually provide the reinsurer with a statement of its financial condition prepared by an independent certified accountant;

(12) The reinsurer shall at least semiannually conduct an on-site review of the underwriting and claims processing operations of the reinsurance intermediary manager;

(13) The reinsurance intermediary manager shall disclose to the reinsurer any relationship it has with any insurer prior to ceding or assuming any business with such reinsurer pursuant to this contract; and

(14) The acts of the reinsurance intermediary manager shall be deemed to be the acts of the reinsurer on whose behalf it is acting.

SECTION 7. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The reinsurance intermediary manager shall not:

(1) Bind retrocessions on behalf of the reinsurer, except that the reinsurance intermediary manager may bind facultative retrocessions pursuant to obligatory facultative agreements if the contract with the reinsurer contains reinsurance underwriting guidelines for those retrocessions. The guidelines shall include a list of reinsurers with which automatic agreements are in effect, and for each reinsurer, the coverages and amounts or percentages that may be reinsured, and the commission schedules;

(2) Commit the reinsurer to participate in reinsurance syndicates;

(3) Appoint any producer without assuring that the producer is lawfully licensed to transact the type of reinsurance for which he is appointed;

(4) Without prior approval of the reinsurer, pay or commit the reinsurer to pay a claim, net of retrocessions, that exceeds the lesser of an amount specified by the reinsurer or one percent (1%) of the reinsurer's policyholder's surplus as of December 31 of the last complete calendar year;

(5) Collect any payment from a retrocessionaire or commit the reinsurer to any claim settlement with a retrocessionaire, without prior approval of the reinsurer. If prior approval is given, a report shall be promptly forwarded to the reinsurer;

(6) Jointly employ an individual who is employed by the reinsurer; or

(7) Appoint a subreinsurance intermediary manager.

SECTION 8. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A reinsurer shall not engage the services of any person, firm, association, or corporation to act as a reinsurance intermediary manager on its behalf unless the person is licensed as required by subsection (2) of Section 2 of this Act.

(2) The reinsurer shall annually obtain a copy of statements of the financial condition of each reinsurance intermediary manager which the reinsurer has engaged prepared by an independent certified accountant in a form acceptable to the commissioner.

(3) If a reinsurance intermediary manager establishes loss reserves, the reinsurer shall annually obtain the opinion of an actuary attesting to the adequacy of loss reserves established for losses incurred and outstanding on business produced by the reinsurance intermediary manager. This opinion shall be in addition to any other required loss reserve certification.

(4) Binding authority for all retrocessional contracts or participation in reinsurance syndicates shall rest with an officer of the reinsurer who shall not be affiliated with the reinsurance intermediary manager.

(5) Within thirty (30) days of termination of a contract with a reinsurance intermediary manager, the reinsurer shall provide written notification of such termination to the commissioner.

(6) A reinsurer shall not appoint to its board of directors any officer, director, employee, controlling shareholder, or subproducer of its reinsurance intermediary manager. This subsection shall not apply to relationships governed by Subtitle 37 of KRS Chapter 304 or, if applicable, any provisions of Subtitle 3 of this chapter on producer controlled insurers.

SECTION 9. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A reinsurance intermediary shall be subject to examination by the commissioner. The commissioner shall have access to all books, bank accounts, and records of the reinsurance intermediary in a form usable to the commissioner.

(2) A reinsurance intermediary manager may be examined as if it were the reinsurer.

SECTION 10. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The license of a reinsurance intermediary may be suspended or revoked, civil penalties imposed in the amount applicable to agents under KRS 304.99-020, conditions imposed on the license, or any combination thereof, on the grounds set forth in KRS 304.9-440.

(2) If a reinsurance intermediary violates any provision of this chapter or any other statute or administrative regulation administered by the commissioner, the reinsurance intermediary shall make restitution to the insurer, reinsurer, rehabilitator, or liquidator of the insurer or reinsurer for net losses incurred by the insurer or reinsurer attributable to the violation.

(3) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided in this chapter.

(4) Nothing contained in Sections 1 to 12 of this Act is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, creditors, or third parties.

SECTION 11. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may promulgate reasonable administrative regulations for the implementation, interpretation, and administration of the provisions of Sections 1 to 12 of this Act.

(2) Insurers or reinsurers shall not continue to utilize the services of a reinsurance intermediary on and after the effective date of Sections 1 to 12 of this Act unless utilization is in compliance with Sections 1 to 12 of this Act.

SECTION 12. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 11 of this Act may be cited as the Reinsurance Intermediary Act.

SB 213, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.5-140 is amended to read as follows:

(1) ***(a) For the purposes of subsection (3)(c) of this section, a "qualified United States financial institution" means an institution that:***

1. Is organized or, in the case of a United States office of a foreign banking organization, licensed under the laws of the United States or any state thereof;

2. Is regulated, supervised, and examined by the United States federal or state authorities having regulatory authority over banks and trust companies; and

3. Has been determined by the commissioner, or the Securities Valuation Office of the National Association of Insurance Commissioners, to meet the standards of financial condition and standing considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(b) A "qualified United States financial institution" means, for purposes of those provisions of this section specifying those institutions that are eligible to act as a fiduciary of a trust, an institution that:

1. Is organized or, in the case of a United States branch or agency office of a foreign banking organization, licensed under the laws of the United States or any state thereof and has been granted authority to operate with fiduciary powers; and

2. Is regulated, supervised, and examined by federal or state authorities having regulatory authority over banks and trust companies.

(2) Credit for reinsurance shall be allowed a ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when the reinsurer meets the requirements of paragraphs (a), (b), (c), (d), or (e) of this subsection. If meeting the requirements of paragraphs (c) or (d) of this subsection, the requirements of paragraph (f) of this subsection shall also be met.

(a) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is authorized to transact insurance or reinsurance in Kentucky.

(b) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is accredited as a reinsurer in Kentucky. An accredited reinsurer is one which:

1. Files with the commissioner evidence of its submission to Kentucky's jurisdiction;

2. Submits to Kentucky's authority to examine its books and records;

3. Is licensed to transact insurance or reinsurance in at least one (1) state, or in the case of a United States branch of an alien assuming insurer, is entered through and licensed to transact insurance or reinsurance in at least one (1) state;

4. Files annually with the commissioner a copy of its annual statement filed with the insurance regulatory official of its state of domicile and a copy of its most recent audited financial statement, and either:

a. Maintains a surplus as regards policyholders in an amount which is not less than twenty million dollars ($20,000,000) and whose accreditation has not been denied by the commissioner within ninety (90) days of its submission; or

b. Maintains a surplus as regards policyholders in an amount less than twenty million dollars ($20,000,000) and whose accreditation has been approved by the commissioner.

5. Credit shall not be allowed a ceding insurer under this paragraph if the assuming insurer's accreditation has been revoked by the commissioner after notice and hearing.

(c) Credit shall be allowed when the reinsurance is ceded to an assuming insurer which is domiciled and licensed in or, in the case of a United States branch of an alien assuming insurer, is entered through a state which employs standards regarding credit for reinsurance substantially similar to those applicable under this section and the assuming insurer or United States branch of an alien insurer:

1. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars ($20,000,000); and

2. Submits to the authority of the commissioner to examine its books and records.

However, subparagraph 1 of this paragraph shall not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system.

(d) 1. Credit shall be allowed when the reinsurance is ceded to an assuming insurer which maintains a trust fund in a qualified United States financial institution for the payment of valid claims of its United States policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the commissioner information substantially the same as that required to be reported on the National Association of Insurance Commissioners annual statement form by authorized insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust fund shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, the assuming insurer shall maintain a trusteed surplus of not less than twenty million dollars ($20,000,000). In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, the group shall maintain a trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group, and the group shall make available to the commissioner an annual certification of the solvency of each underwriter by the group's domiciliary insurance regulatory official and its independent public accountants.

2. In the case of a group of incorporated insurers under common administration which complies with the filing requirements contained in subparagraph 1 of this paragraph, and which is under the supervision of the Department of Trade and Industry of the United Kingdom and submits to the commissioner's authority to examine its books and records and bears the expense of the estimation, and which has aggregate policyholders' surplus of ten billion dollars ($10,000,000,000), the trust shall be in an amount equal to the group's several liabilities attributable to business written in the United States plus the group shall maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) shall be held jointly for the benefit of United States ceding insurers of any member of the group, and each member of the group shall make available to the commissioner an annual certification of the member's solvency by the member's domiciliary insurance regulatory official and its independent public accountant.

3. The trust shall be established in a form approved by the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust shall remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust.

4. No later than February 28 of each year the trustees of the trust shall report to the commissioner in writing setting forth the balance of the trust and listing the trust's investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31.

(e) Credit shall be allowed when the reinsurance is ceded to an assuming insurer not meeting the requirements of paragraphs (a), (b), (c), or (d) of this subsection, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is required by applicable law or regulation of that jurisdiction or reinsurance ceded to a residual market mechanism reinsurance association, or the members thereof, created pursuant to law or which has been voluntarily created as such by its members with the approval of the commissioner.

(f) If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in Kentucky, the credit permitted by paragraphs (c) and (d) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

1. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, shall comply with all requirements necessary to give the court jurisdiction, and shall abide by the final decision of the court or of any appellate court in the event of an appeal; and

2. To designate the Secretary of State or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding insurer.

This paragraph is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if this obligation is created in the agreement.

(3) A reduction from liability for the reinsurance ceded by an insurer to an assuming insurer not meeting the requirements of subsection (2) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and the reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with the assuming insurer as security for the payment of obligations thereunder, if the security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or, in the case of a trust, held in a qualified United States financial institution. This security may be in the form of:

(a) Cash;

(b) Securities listed by the Securities Valuation Office of the National Association of Insurance Commissioners and qualifying as admitted assets;

(c) Clean, irrevocable, unconditional letters of credit issued or confirmed by a qualified United States financial institution no later than December 31 in respect of the year for which filing is being made, and in the possession of the ceding insurer on or before the filing date of its annual statement. Letters of credit

meeting applicable standards of issuer acceptability as of the dates of their issuance, or confirmation, shall, notwithstanding the issuing, or confirming, institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification, or amendment, whichever first occurs; or

(d) Any other form of security acceptable to the commissioner. [~~An insurer may accept reinsurance only of such kinds or risks, and retain risk thereon within such limits, as it is otherwise authorized.~~

~~(2) Credit for reinsurance shall be allowed an authorized ceding insurer as either an asset or a deduction from liability on account of reinsurance ceded only when:~~

~~(a) The reinsurance is ceded to an assuming insurer which is authorized to transact insurance or reinsurance or otherwise accredited as a reinsurer in this state or authorized in at least one (1) state which employs standards regarding credit for reinsurance substantially similar to those applicable under this subsection and which insurer conforms to the same standards of solvency which would be required of such insurer if it were licensed in this state;~~

~~(b) The reinsurance is ceded to a residual market mechanism reinsurance association (or the members thereof) created pursuant to law or which has been voluntarily created as such by its members with the approval of the commissioner; or~~

~~(c) The reinsurance is ceded to an assuming insurer which maintains a trust fund in a United States bank or trust company for the payment of the valid claims of its United States policyholders and ceding insurers, their assigns, and successors in interest. The assuming insurer shall report annually to the commissioner or his designee information substantially the same as that required to be reported on the National Association of Insurance Commissioners' annual statement form by authorized insurers to enable the commissioner to determine the sufficiency of the trust fund. In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than twenty million dollars ($20,000,000). In the case of a group of individual unincorporated underwriters, the trust shall consist of a trusteed account representing the group's liabilities attributable to business written in the United States and, in addition, include a trusteed surplus of not less than one hundred million dollars ($100,000,000), and the group shall make available to the commissioner or his designee the annual certification by the group's domiciliary regulator and its independent public accounts of the solvency of each underwriter:~~

~~1. Such trust shall be established in a United States bank or trust company which is a member of the federal reserve system in a form approved by the commissioner. The trust instrument shall provide that contested claims shall be valid and enforceable upon the final order of any court of competent jurisdiction in the United States. The trust shall vest legal title to its assets in the trustees of the trust for its United States policyholders and ceding insurers, their assigns, and successors in interest. The trust and the assuming insurer shall be subject to examination as determined by the commissioner. The trust described herein must remain in effect for as long as the assuming insurer shall have outstanding obligations due under the reinsurance agreements subject to the trust;~~

~~2. No later than February 28th of each year, the trustees of the trust shall report to the commissioner or his designee in writing setting forth the balance of the trust and listing the trusts investments at the preceding year end and shall certify the date of termination of the trust, if so planned, or certify that the trust shall not expire prior to the next following December 31st;~~

~~(d) The reinsurance is ceded to an assuming insurer not meeting the requirements of paragraph (a) or (c) of this subsection, but only with respect to the insurance of risks located in jurisdictions other than the United States, where such reinsurance is required by applicable law or regulation of that jurisdiction; or~~

~~(e) If the assuming insurer is not authorized or accredited to transact insurance or reinsurance in this state, the credit permitted by paragraphs (a) and (c) of this subsection shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:~~

~~1. That in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer, at the request of the ceding insurer, shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, will comply with all requirements necessary to give such court jurisdiction, and will abide by the final decision of such court or of any appellate court in the event of an appeal; and~~

~~2. To designate the Secretary of State or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company. This provision is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if such an obligation is created in the agreement; and~~

~~(f) Cession of bulk reinsurance by a domestic insurer is subject to KRS 304.24-420.~~

~~(3) A reduction from liability for reinsurance ceded to an assuming insurer not meeting the requirements of subsection (2) of this section shall be allowed in an amount not exceeding the liabilities carried by the ceding insurer and such reduction shall be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of the obligations thereunder, if such security is held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer, or in the case of a trust, held in a United States bank or trust company that is a member of the federal reserve system. This security must be in the form of:~~

~~(a) Cash;~~

~~(b) Securities listed by the security valuation office of the National Association of Insurance Commissioners and qualifying as admitted assets;~~

~~(c) Clean, irrevocable, and unconditional letters of credit, issued or confirmed by a bank or trust company that is a member of the federal reserve system; or~~

~~(d) Any other form of security acceptable to the commissioner.~~]

(4) ***Cession of bulk reinsurance by a domestic insurer is subject to KRS 304.24-420.***

(5) Credit shall be allowed as an asset or as a deduction from liability, to any ceding insurer for reinsurance ceded to an assuming insurer qualified therefor under subsections (2)***,*** [~~or~~] (3)***, or (4)*** of this section, except that no such credit shall be allowed unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contracts reinsured without diminution because of the insolvency of the ceding insurer.

(6)[~~(5)~~] Upon request of the commissioner an insurer shall promptly inform the commissioner in writing of the cancellation or any other material change of any of its reinsurance treaties or arrangements.

(7) Subsections (1) to (3) of this section shall apply to all cessions after the effective date of this Act under reinsurance agreements which have had an inception, anniversary, or renewal date not less than six (6) months after the effective date of this Act.

SB 214, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 7 of this Act, unless the context requires otherwise:

(1) "Accredited state" means a state in which the insurance regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established from time to time by the National Association of Insurance Commissioners.

(2) "Control" or "controlled" has the meaning set forth in KRS 304.37-010(8).

(3) "Controlled insurer" means an authorized insurer which is controlled, directly or indirectly, by a producer.

(4) "Controlling producer" means a producer who directly or indirectly, controls an insurer.

(5) "Authorized insurer" or "insurer" means an insurer holding a certificate of authority from the commissioner to transact property or casualty insurance business in Kentucky. The following, among others, are not authorized insurers for the purposes of Sections 1 to 7 of this Act:

(a) All risk retention groups as defined in the Superfund Amendments Reauthorization Act of 1986, (P.L. 99-499, 100 Stat. 1613, and the Liability Risk Retention Act, 15 U.S.C. sec. 3901 et seq.) and Subtitle 45 of this chapter;

(b) All residual market mechanisms and joint underwriting authorities or associations; and

(c) All captive insurers, that is, insurers owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, insurance organizations owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members and their affiliates.

(6) "Producer" means a person, firm, association, or corporation, when, for any compensation, commission, or other thing of value, the person, firm, association, or corporation acts or aids in any manner in soliciting, negotiating, or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association, or corporation.

SECTION 2. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 in this Act shall apply to authorized insurers as defined in Section 1 of this Act, either domiciled in this Commonwealth or domiciled in a state that is not an accredited state having in effect a substantially similar law. All provisions of Subtitle 37 of this chapter, relating to insurance holding company systems, to the extent they are not superseded by Sections 1 to 7 in this Act, shall continue to apply to all parties within the holding company systems subject to Sections 1 to 7 of this Act.

SECTION 3. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The applicability of this section is as follows:

(a) The provisions of this section shall only apply if in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling producer is equal to or greater than five percent (5%) of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September 30 of the immediate preceding year.

(b) Notwithstanding paragraph (a) of this subsection, the provisions of this section shall not apply if:

1. The controlling producer:

a. Places insurance only with the controlled insurer, or only with the controlled insurer and a member or members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate, or subsidiary and receives no compensation based upon the amount of premiums written in connection with the insurance; and

b. Accepts insurance placements only from nonaffiliated subproducers, and not directly from insureds; and

2. The controlled insurer, except for insurance business written through a residual market mechanism, accepts insurance business only from a controlling producer, a producer controlled by the controlled insurer, or a producer that is a subsidiary of the controlled insurer.

(2) A controlled insurer shall not accept business from a controlling producer and a controlling producer shall not place business with a controlled insurer unless there is a written contract between the controlling producer and the insurer specifying the responsibilities of each party, and the contract has been approved by the board of directors of the insurer and contains the following minimum provisions:

(a) The controlled insurer may terminate the contract for cause, upon written notice to the controlling producer. The controlled insurer shall suspend the authority of the controlling producer to write business during the pendency of any dispute regarding the cause for termination;

(b) The controlling producer shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges, and other fees received by, or owing to, the controlling producer;

(c) The controlling producer shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date shall be fixed so that premiums or installments collected shall be remitted no later than ninety (90) days after the effective date of any policy placed with the controlled insurer under this contract;

(d) All funds collected for the controlled insurer's account shall be held by the controlling producer in a fiduciary capacity, in one (1) or more appropriately identified bank accounts in banks that are members of the federal reserve system, in accordance with the provisions of the insurance code, as applicable. Funds of a controlling producer not required to be licensed in this state shall be maintained in compliance with the requirements of the controlling producer's domiciliary jurisdiction;

(e) The controlling producer shall maintain separately identifiable records of business written for the controlled insurer;

(f) The contract shall not be assigned in whole or in part by the controlling producer;

(g) The controlled insurer shall provide the controlling producer with its underwriting standards, rules and procedures, and with manuals stating the rates to be charged and the conditions for the acceptance or rejection of risks. The controlling producer shall adhere to the standards, rules, procedures, rates, and conditions. The standards, rules, procedures, rates, and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a producer other than the controlling producer;

(h) The rates and terms of the controlling producer's commissions, charges, or other fees and the purposes for those charges or fees. The rates of commissions, charges, and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by producers other than the controlling producers. For purposes of this paragraph and paragraph (g) of this subsection, examples of "comparable business" include the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business. This paragraph does not authorize controlling producers to charge fees which the controlling producer is not otherwise permitted to charge under the provisions of the insurance code;

(i) If the contract provides that the controlling producer, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then such compensation shall not be determined and paid until at least five (5) years after the premiums on liability insurance are earned and at least one (1) year after the premiums are earned on any other insurance. In no event shall the commissions be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to subsection (3) of this section;

(j) A limit on the controlling producer's writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or subline of business. The controlled insurer shall notify the controlling producer when the applicable limit is approached and shall not accept business from the controlling producer if the limit is reached. The controlling producer shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached; and

(k) The controlling producer may negotiate, but shall not bind, reinsurance on behalf of the controlled insurer on business the controlling producer places with the controlled insurer, except that the controlling producer may bind facultative reinsurance contracts pursuant to obligatory facultative agreements, if the contract with the controlled insurer contains underwriting guidelines, for both reinsurance assumed and ceded, which include a list of reinsurers with automatic agreements that are in effect, the coverages and amounts or percentages that may be reinsured, and commission schedules.

(3) Every controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet with the management, the insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the commissioner to review the adequacy of the insurer's loss reserves.

(4) Reporting requirements are as follows:

(a) In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary, or other independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of the end of the year, including incurred but not reported losses, on business placed by the producer; and

(b) The controlled insurer shall annually report to the commissioner the amount of commissions paid to the producer, the percentage that amount represents of the net premiums written, and comparable amounts and percentage paid to noncontrolling producers for placements of the same kinds of insurance.

SECTION 4. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The producer, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the producer and the controlled insurer, except that, if the business is placed through a subproducer who is not a controlling producer, the controlling producer shall retain in his records a signed commitment from the subproducer that the subproducer is aware of the relationship between the insurer and the producer and that the subproducer has or will notify the insured.

SECTION 5. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the commissioner believes that the controlling producer or any other person has not materially complied with Sections 1 to 7 in this Act, or any administrative regulation or order promulgated under Sections 1 to 7 in this Act, the commissioner may;

(a) Order the controlling producer to cease placing business with the controlled insurer; or

(b) If it was found that because of the material noncompliance that the controlled insurer or any policyholder has suffered any loss or damage, the commissioner may maintain a civil action, intervene in an action brought by or on behalf of the insurer or a policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder, or seek other appropriate relief.

(2) Appeals from orders issued under subsection (1) of this section shall be taken as provided in Subtitle 2 of this chapter.

(3) If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to Subtitle 33 of this chapter, and the receiver appointed under that order believes that the controlling producer or any other person has not materially complied with Sections 1 to 7 in this Act, or any administrative regulation or order promulgated under Sections 1 to 7 in this Act, and the insurer suffered any loss or damage, the receiver may maintain a civil action for recovery of the damages or seek other appropriate sanctions for the benefit of the insurer.

(4) Nothing contained in this section shall affect the right of the commissioner to exercise any other authority granted to him by law.

(5) Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors, or other third parties.

SECTION 6. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Controlled insurers and controlling producers which are not in compliance with Section 3 of this Act on its effective date shall have sixty (60) days after the effective date of this Act to comply, and shall comply with Section 4 of this Act beginning with all policies written or renewed on or after sixty (60) days after the effective date of this Act.

SECTION 7. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 7 of this Act may be cited as the Business Transacted with a Producer-Controlled Property or Casualty Insurer Act.

The Committee on Cities reported **HB 852**, **SB 3**, **SB 145**, **SB 206** and **SB 269** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 852, AN ACT relating to the abatement of nuisances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act:

(1) "Local government" means a city of the first class;

(2) "Hearing board" means a body established by ordinance and empowered to conduct hearings pursuant to Section 3 of this Act and composed of one (1) or more persons appointed by the mayor of the local government. "Hearing board" also means any hearing officers appointed by the board. Any action of a hearing officer shall be deemed to be the action of the board; and

(3) "Nuisance code" means an ordinance or ordinances enacted by a local government pursuant to KRS 381.770, and Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

A local government may, by ordinance, enact a nuisance code and impose penalties for violation of the nuisance code. The violations may be enforced with criminal penalties or a local government may, by ordinance, elect to enforce violations with civil penalties pursuant to the procedures set forth in Sections 3, 4, and 5 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

Any local government electing to enact a nuisance code and enforce violations of the nuisance code as civil violations shall enact an ordinance or ordinances which:

(1) Establish the acts, actions, behavior, or conditions which constitute violations;

(2) Establish reasonable standards and procedures for the enforcement of the nuisance code;

(3) Provide for the establishment of a hearing board and hearing officers and the procedures to be followed by the hearing board and hearing officers;

(4) Delegate responsibility for enforcement of the nuisance code to an agency or department of the local government; and

(5) Establish penalties to be imposed upon persons determined to have violated the nuisance code.

SECTION 4. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates the nuisance code shall be cited for the violation and shall receive notice of the violation. The form of the notice shall be designed by the local government in a manner reasonably calculated to inform the person of the nature of the violation, the penalties for violation, the procedure to be followed by him to respond to the notice, and that the determination shall be final unless contested pursuant to the hearing procedures provided under Section 3 of this Act.

(2) The notice of violation shall represent a determination that a violation has been committed, and that determination shall be final unless contested.

(3) The owner of the property at the time the violation occurred shall be liable for all fines, fees, and penalties assessed for the violation.

(4) An appeal from the hearing board's determination may be made to the District Court of the county in which the city is located within seven (7) days of the board's determination. The appeal shall be initiated by the filing of a complaint and a copy of the board's order in the same manner as any civil action under the Rules of Civil Procedure. The action shall be tried de novo and the burden shall be upon the local government to establish that a violation occurred. If the court finds that a violation occurred, the owner shall be ordered to pay to the local government all fines, fees, and penalties occurring as of the date of the judgement. If the court finds a violation did not occur, the local government shall be ordered to dismiss the notice and the plaintiff shall be authorized to recover his costs.

(5) A judgment of the District Court may be appealed to the Circuit Court in accordance with the Rules of Civil Procedure.

SECTION 5. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

(1) The local government shall possess a lien on property for all fines, penalties, charges, and fees imposed pursuant to this Act. The lien shall be superior to and have priority over all other liens on the property, except state, county, school board, and city taxes.

(2) Nothing in this Act shall otherwise affect the rights or obligations between the owner of the property and those persons who claim a security interest in the property.

SECTION 6. A NEW SECTION OF KRS CHAPTER 82 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the "Local Government Nuisance Code Enforcement Act."

SB 3, AN ACT relating to the board of directors of the Kentucky Housing Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198A.030 is amended to read as follows:

(1) There is hereby created and established an independent, de jure municipal corporation and political subdivision of the Commonwealth which shall be a public body corporate and politic to be known as the Kentucky Housing Corporation.

(2) The Kentucky Housing Corporation is created and established as a de jure municipal corporation and political subdivision of the Commonwealth to perform essential governmental and public functions and purposes in improving and otherwise promoting the health and general welfare of the people by the production of residential housing in Kentucky.

(3) The corporation shall be governed by a board of directors, consisting of ***thirteen (13)*** [~~fourteen (14)~~] members, six (6) of whom shall be the Lieutenant Governor, the secretary of the Finance and Administration Cabinet, the commissioner of the Department of Local Government, the secretary of ***the*** Revenue ***Cabinet***, the Attorney General, and the secretary of the Cabinet for Economic Development, or their duly appointed designees, as public directors, and ***seven (7) private directors who*** [~~eight (8) of whom~~] shall be ***appointed by the Governor, subject to confirmation by the Senate as provided by KRS 11.160, as follows:***

(a) One (1) private director representing the interests of financial lending institutions located within the Commonwealth;

(b) One (1) private director representing the interests of the manufactured housing industry within the Commonwealth;

(c) One (1) private director representing the interests of real estate practitioners licensed by the Kentucky Real Estate Commission;

(d) One (1) private director representing the interests of the homeless population within the Commonwealth;

(e) One (1) private director representing the interests of local government;

(f) One (1) private director representing the interests of the home construction industry in the Commonwealth; and

(g) One (1) private director representing the interests of consumers in the Commonwealth [~~chosen from the general public residing in the Commonwealth, as private directors~~].

(4) ***Private directors appointed by the Governor may include previous members of the board, and members may be reappointed for successive terms. All appointments shall be for four (4) years, and the*** [~~Upon organization of the corporation, the Governor shall appoint the eight (8) private directors to take office and to exercise all powers thereof immediately. Of the eight (8) directors of the corporation thus appointed, two (2) shall continue in office for terms of one (1) year, and two (2) for terms of two (2) years, two (2) for terms of three (3) years and two (2) for terms of four (4) years respectively as the Governor shall designate; at the expiration of said terms and for all succeeding terms, the Governor shall appoint a successor to the office of private director for a term of four (4) years in each case; provided, however, such~~] appointees shall serve until a qualified successor is appointed.

(5) In case of a vacancy, the Governor may appoint a person for ***the*** [~~such a~~] vacancy to hold office during the remainder of the term. ***A vacancy shall be filled pursuant to the requirement and procedures for appointments.***

(6) The Governor may remove any private director whom he may appoint in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; and he may declare his office vacant and may appoint a person for ***the*** [~~such~~] vacancy as provided in ***this section*** [~~other cases of vacancy~~].

(7) The Governor shall designate a director of the corporation to serve as chairman. The term of the chairman shall extend to the earlier of either the date of expiration of his then current term as a director of the corporation or a date six (6) months after the expiration of the then current term of the Governor designating ***the*** [~~such~~] chairman.

(8) The board of directors shall annually elect one (1) of its members as vice chairman. The board of directors shall also elect or appoint, and prescribe the duties of, [~~such~~] other officers [~~as~~] the board of directors deems necessary or advisable, including an executive director and a secretary, and the board of directors shall fix the compensation of ***the*** [~~such~~] officers.

(9) The executive director shall administer, manage, and direct the affairs and business of the corporation, subject to the policies, control, and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, the minute book or journal of the corporation, and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that [~~such~~] copies are true copies, and all persons dealing with the corporation may rely upon ***the*** [~~such~~] certificates.

(10) A majority of the board of directors of the corporation shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes. ***A*** [~~Such~~] majority shall be determined by excluding any existing vacancies from the total number of directors.

(11) Action shall be taken by the corporation upon a vote of a majority of the directors present at a meeting at which a quorum shall exist called upon three (3) days' written notice to each director or upon the concurrence of at least ***seven (7)*** [~~eight (8)~~] directors.

(12) [~~All directors shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties under this chapter.~~] Each private director [~~appointed pursuant to subsection (3) of this section~~] shall be entitled to a fee of ***one hundred dollars ($100)*** [~~fifty dollars ($50)~~] for attendance at each meeting of the board of directors ***or duly called committee meeting of the board.***

Section 2. The existing private directors on the board of the Kentucky Housing Corporation shall continue to serve the remainder of their unexpired terms. For the two private directors whose terms expire on October 30, 1995, a single private director shall succeed them. The Governor shall make all appointments for the private directors on the board so that when the appointments for terms expiring in 1995 have been filled, the membership of the board shall fully comply with the representational requirements mandated by subsection (3) of Section 1 of this Act. These requirements shall then continue in force for the filling of vacancies for each director.

SB 145, AN ACT changing the classification of the city of Graymoor/Devondale, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the city of Graymoor/Devondale, in Jefferson County, is such as to justify its being classified as a city of the fourth class.

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The city of Graymoor/Devondale, in Jefferson County, is transferred from the sixth to the fourth class of cities.

SB 206, AN ACT relating to housing, buildings, and construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

In any action alleging defective building design, construction, materials, or supplies where the injury, death, or property damage occurs more than five (5) years after the date of completion of construction

or incorporation of materials or supplies into the building, there shall be a presumption that the building was not defective in design, construction, materials, or supplies. This presumption may be overcome by a preponderance of the evidence to the contrary.

SB 269, AN ACT relating to the selection and training of city, urban-county, charter county, and auxiliary police officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 5 of this Act unless the context requires otherwise:

(1) "Police officer" means a person who is employed as a sworn law enforcement officer by a city, urban-county, or charter county government law enforcement agency, excluding sheriffs, deputy sheriffs, constables, deputy constables, jailers, coroners, correctional officers, marshals, and special local peace officers.

(2) "Auxiliary police officer" means a person who is appointed as a member of an auxiliary police force created under KRS 95.445 and who has the authority to carry deadly weapons or make arrests.

SECTION 2. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

As of the effective date of Sections 2 to 5 of this Act, no person shall be originally appointed or employed as a police officer or an auxiliary police officer by a city, urban-county, or charter county government in the Commonwealth unless he:

(1) Is at least twenty-one (21) years of age; and

(2) Is a high school graduate or has received a general equivalency diploma (G.E.D.).

SECTION 3. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) All police officers and auxiliary police officers originally appointed or employed by a city, urban-county, or charter county government after the effective date of Sections 2 to 5 of this Act shall, within one (1) year of their appointment or employment, successfully complete at least four hundred (400) hours of basic training administered or approved by the Department of Criminal Justice Training.

(2) All police officers and auxiliary police officers specified in subsection (1) of this section shall, upon completion of the basic training required in the same section, successfully complete forty (40) hours of annual in-service training administered or approved by the Department of Criminal Justice Training.

(3) All police officers and auxiliary police officers appointed or employed before the effective date of Sections 2 to 5 of this Act, shall successfully complete forty (40) hours of annual in-service training administered or approved by the Department of Criminal Justice Training.

(4) In the event of extenuating circumstances beyond the control of the officer such as injury, illness, or personal tragedy which prevents the officer from completing the basic or in-service training within the time specified in subsections (1) to (3) of this section, the officer shall complete the training within one hundred eighty (180) days after return to duty. Any police officer or auxiliary police officer who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be dismissed from employment as a police officer or from membership on the auxiliary police force.

SECTION 4. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

Funds in the Kentucky Law Enforcement Foundation Program Fund may be utilized by the Department of Criminal Justice Training to reimburse cities, urban-counties, or charter counties with regular police departments of five (5) or fewer officers for the cost of the base salary for each regular, full-time police officer while the officer is obtaining the training required in Section 3 of this Act. The city, urban-county, or charter county shall show to the satisfaction of the Department of Criminal Justice Training that it will be placed in a situation of undue hardship if the funding is not provided. The secretary of the Justice Cabinet shall promulgate administrative regulations upon the recommendation of the Kentucky Law Enforcement Council to define what constitutes "undue financial hardship" and to otherwise implement this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 95 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 2 to 4 of this Act shall be in addition to the requirements of KRS 61.300 or any other statute.

(2) The provisions of Sections 2 to 4 of this Act shall not be construed as limiting any city, urban-county, or charter county in the Commonwealth which appoints or employs peace officers or auxiliary police officers from requiring standards of performance stricter than those contained in Sections 2 to 4 of this Act.

The Committee on Appropriations and Revenue reported **HB 7**, **HB 15**, with Committee Substitute attached thereto, **HB 28**, with Committee Amendment attached thereto, **HB 113**, with Committee Substitutes attached thereto, and **HB 267**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 28** is as follows:

Amend printed copy of **HB 28** on page 11, lines 3 through 8, by deleting lines 3 through 8 in their entirety.

The Committee Substitute No. 2 to **HB 113** is as follows:

HB 113, AN ACT relating to an early retirement program and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.596 is amended to read as follows:

(1) ***Except as provided in subsection (2),*** any employee hired on or before January 1, ***1992*** [~~1988~~], who is a participating member of the Kentucky Employees Retirement System and who has service credit in the retirement system as prescribed in KRS 61.559(2)(a), (b), (c) or (d), or any employee hired on or before January 1, ***1992*** [~~1988~~], who is participating in the State Police Retirement System and who meets the requirements of KRS 16.505(15) or (21) may receive additional service credit equal to ten percent (10%) of his actual service credit prior to the addition of service credit for accrued sick leave as provided in KRS 61.546. ***Except as provided in subsection (2),*** any employee of a parted employer hired on or before January 1, ***1992*** [~~1988~~] who meets the requirements of KRS 61.559(2)(e) may also receive additional service credit equal to ten percent (10%) of his actual service credit earned while actually participating in the system, prior to the addition of service credit for accrued sick leave as provided in KRS 61.546.

(2) ***The provisions of this section shall not apply to a member who has retired and who is contributing as a result of reemployment under KRS 61.637.***

(3) An employee electing to retire under the provisions set forth in subsection (1) of this section who may have accumulated annual leave shall not receive termination pay for the accumulated annual leave but shall have the accumulated annual leave transferred to accumulated sick leave. Upon retirement the accumulated sick leave, including the accumulated annual leave shall be used in determining the members monthly retirement allowance. The transferred accumulated annual leave shall not be used in determining the members eligibility for medical insurance under KRS 61.702 or be used in determining the reduction in benefits under KRS 61.595(2).

(4) The additional service credit provided in subsection (1) of this section shall be used in determining the member's monthly retirement allowance. The additional service credit shall not be used in determining the member's eligibility for medical insurance under KRS 61.702 or in determining the reduction in benefits under KRS 61.595(2).

(5)[~~(3)~~] The employee shall submit a notification of retirement as prescribed in KRS 16.576(2) or 61.590(1) no earlier than July 15, ***1992*** [~~1988~~], and no later than September 30, ***1992*** [~~1988~~], except that the provisions of this section shall not apply in the case of disability or in the event the employee dies prior to filing a notification of retirement within the prescribed time period. The employee shall also notify the agency or department in which he is employed and the Department of Personnel of his intent to retire under the provisions of this section. The effective date of retirement under this section shall be the first of the month following termination of employment, except that the retirement date shall not be earlier than ***September*** [~~August~~] 1, ***1992*** [~~1988~~], and not later than November 1, ***1992*** [~~1988~~]. The employee may void his decision to retire under the provisions of this section if he does so in writing to retirement systems, the Department of Personnel and his agency or department no later than September 30, ***1992*** [~~1988~~].

(6)[~~(4)~~] The retirement system's actuary shall determine the actuarial cost of the additional service provided in subsection (1) of this section for each employee and the cost shall be paid by the agency or department from which he terminates employment. The money paid by the agency or department shall be added to the retirement allowance account of the retirement system from which the member draws his retirement allowance and shall not be considered accumulated contributions of the member. The agency or department shall submit payment for the cost of ***the*** [~~such~~] service ***pursuant to subsection (9) of this section*** [~~upon the last day of the month in which the member terminates or in two (2) installments. If the agency or department elects to pay the cost in two (2) installments, the agency shall pay an amount equal to fifty and four hundred and eighty-one thousandths percent (50.481%) of the total cost upon the member's termination date and within ninety (90) days of that date~~].

(7)[~~(5)~~] Any employee retiring under the provisions of this section shall forfeit the additional service provided in subsection (1) of this section if he is reemployed ***in any capacity including, but not limited to, full-time, part-time, temporary, emergency, seasonal, or contractual***[~~, earning more than the Federal Social Security Act maximum for a retired person with an agency participating in the retirement system from which he retired, within a period of time equal to the amount of additional service he received under subsection (1) of this section~~].

(8)[~~(6)~~] The Kentucky Retirement Systems shall notify all employees eligible for the provisions of this section, the Department of Personnel and each eligible employee's agency of the provisions of this section by May 1, ***1992*** [~~1988~~]. The Kentucky Retirement Systems shall [~~conduct regional seminars between June 1 and July 31, 1988, to explain the provisions of this section and shall, upon the request of the eligible employee,~~] provide an estimate of his benefits under this section.

(9)[~~(7)~~] The purpose of this section is to bring expenditures in line with general fund revenues. ***All unobligated moneys appropriated for the salary and benefits of a position vacated as a result of an employee voluntarily choosing to elect retirement under this section shall be frozen until the cost of each agencies retirees can be established. Upon establishment of each agencies cost and projected credits due to the retirees position being abolished, the cost shall be applied to the projected vacancy credit and the agencies' budget shall be adjusted accordingly with one-half (1/2) of the actuarial cost value being applied to the 1992-93 budget on December 31, 1992 and the remaining actuarial balance being applied to the 1993-94 budget in July, 1993. The Secretary of the Cabinet, Chief Justice of the Supreme Court or the Legislative Research Commission may approve exceptions to abolishment of positions vacated by retirement as described in this subsection when the position is justified in writing to them to be a critical position which when abolished will severely impact the efficient operation of their respective branches of state government.***

(10) Subsection (5) notwithstanding, a state employee who would have been eligible for the early retirement program on September 1, 1992, but who was laid off solely for the purpose of revenue constraints or whose job was abolished due to budget reductions between January 1, 1992 and September 1, 1992, shall be eligible to participate in the early retirement program as if he were an employee of the state on September 1, 1992. The Department of Personnel shall submit as soon as practicable to the Kentucky Retirement Systems the names of all state employees laid off between January 1, 1992 and September 1, 1992, due to budget constraints.

(11) No discrimination is intended by this section against any present or future employees. It is the intent of this section to encourage those employees nearing retirement to elect retirement as a voluntary service to the Commonwealth.

Section 2. The Finance and Administration Cabinet shall be granted authority to accrue savings and transfer sufficient funds between appropriation units of agencies and departments under the provisions of this Act to facilitate payments into the respective retirement systems for federally funded employees and employees of parted employers electing early retirement.

Section 3. Whereas, it is necessary to initiate the actions necessary to manage an early retirement program prior to July 15, 1992, in order to effect retirements by the target dates of this Act, an emergency is declared to exist and this Act shall take effect upon its passage and signature by the Governor.

The Committee Amendment No. 1 to **HB 267** is as follows:

Amend printed copy of **HB 267** on page 8, line 26, by deleting line 26 in its entirety;

On page 9, lines 1 through 3, by deleting lines 1 through 3 in their entirety.

The Committee on Appropriations and Revenue reported **HB 653**, with Committee Substitute attached thereto, **HB 780**, **HCR 159**, with Committee Substitute attached thereto, **HCR 167**, with Committee Substitute attached thereto, and **SB 205**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 653, AN ACT relating to railroads, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) The Interstate Rail Passenger Network Compact is ratified, enacted, and entered into by the state of Kentucky with all other states joining the compact in the form substantially as this chapter.

(2) It is the policy of the states party to this compact to cooperate and share the administrative and financial rail passenger network system connecting major cities in Illinois, Indiana, Kentucky, Tennessee, Georgia, and Florida. The participating states agree that a rail passenger system would provide a beneficial service and would be enhanced if operated across state lines.

(3) The states of Illinois, Indiana, Kentucky, Tennessee, Georgia and Florida, referred to in this chapter as "participating states" agree, upon adoption of this compact by the respective states, to jointly conduct and participate in a rail passenger network financial and economic impact study. The study shall do the following:

(a) Carry forward research previously performed by the National Railroad Passenger Corporation (Amtrack) (report issued December 1990) and the Evansville Amtrack task force (report issued November 1990) that evaluated the "western route" (Chicago-Evansville-NashvilleChattanooga-Macon-Waycross-Jacksonville) for purposes of evaluating a representative service schedule, train running times, and associated costs.

(b) Include consideration of the following:

1. The purchase of railroad equipment by a participating state and the lease of the railroad equipment to Amtrack.

2. The recommendation that a member of the council serve on the Amtrack board of directors.

3. The periodic review of projected passenger traffic estimates on the western route.

4. Any other matter related to the financial and economic impact of a rail passenger network along the western route.

(4) Information and data collected during the study under subsection (3) of this section that is requested by a participating state or a consulting firm representing a participating state or the compact may be made available to the state or firm. However, the information shall not include matters not of public record or of a nature considered to be privileged and confidential unless the state providing the information agrees to waive the confidentiality.

(5) The participating states agree to do the following:

(a) Make available to each other and to a consulting firm representing a participating state or the compact assistance that is available, including personnel, equipment, office space, machinery, computers, engineering and technical advice and services.

(b) Provide financial assistance for the implementation of the feasibility study that is available.

Section 2. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) The Interstate Rail Passenger Advisory Council, referred to in this compact as the "council", is created. The membership of the council shall consist of three (3) individuals from each participating state. The Governor, the President Pro Tem of the Senate, and the Speaker of the House of Representatives shall each appoint one (1) member of the council.

(2) The council shall do the following:

(a) Meet within thirty (30) days after ratification of this agreement by at least two (2) participating states.

(b) Establish rules for the conduct of the council's business, including the payment of the reasonable and necessary travel expenses of council members.

(c) Coordinate all aspects of the rail passenger financial and economic impact study pursuant to Section 1 (3) of this Act.

(d) Contract with persons, including institutions of

higher education, for performance of any part of the study under Section 1 (3) of this Act.

(e) Upon approval of the study, determine the proportionate share that each state will contribute toward the implementation and management of the proposed restoration of the interstate rail passenger system along the western route.

(f) Make recommendations to each participating state legislature concerning the results of the study required by Section 1 (3) of this Act.

(3) This compact shall become effective upon the adoption of the compact into law by at least two (2) of the participating states. Thereafter, the compact shall become effective for another participating state upon the enactment of the compact by the state.

(4) This compact shall continue in force with respect to a participating state and shall remain binding upon the state until six (6) months after the state has given notice to each other participating state of the repeal of this Act. The withdrawal shall not be construed to relieve a participating state from an obligation incurred before the end of the state's participation in the compact.

(5) This compact shall be liberally construed to effectuate the compact's purposes and the provisions of this compact are severable. If:

(a) A phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a participating state or of the United States; or

(b) The applicability of this compact to a government, an agency, a person, or a circumstance is held invalid;

the validity of the remainder of this compact and the compact's applicability to any government, agency, person, or circumstance shall not be affected.

(6) If this compact is held contrary to the constitution of a participating state, the compact shall remain in effect for the remaining participating states and in effect for the state affected for all severable matters.

(7) There shall be appropriated from the general fund, $10,000 for each year of the 1992-93 and 1993-94 bienniums, to the Interstate Rail Passenger Advisory Council, created in Section 2 of this Act, for its use in carrying out the purposes of its duties.

Section 3. Whereas other states have already ratified this agreement, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 653** is as follows:

HB 653, AN ACT relating to railroads, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) The Interstate Rail Passenger Network Compact is ratified, enacted, and entered into by the state of Kentucky with all other states joining the compact in the form substantially as this chapter.

(2) It is the policy of the states party to this compact to cooperate and share the administrative and financial rail passenger network system connecting major cities in Illinois, Indiana, Ohio, Kentucky, Tennessee, Georgia, and Florida. The participating states agree that a rail passenger system would provide a beneficial service and would be enhanced if operated across state lines.

(3) The States of Illinois, Indiana, Ohio, Kentucky, Tennessee, Georgia, and Florida, referred to in this chapter as "participating states" agree, upon adoption of this compact by the respective states, to jointly conduct and participate in a rail passenger network financial and economic impact study. The study shall do the following:

(a) Carry forward research previously performed by the National Railroad Passenger Corporation (Amtrack) (report issued December 1990).

(b) Include consideration of the following:

1. Evaluation of all possible routes between the participating states as determined by Amtrack.

2. The purchase of railroad equipment by a participating state and the lease of the railroad equipment to Amtrack.

3. The recommendation that a member of the council serve on the Amtrack board of directors.

4. The periodic review of projected passenger traffic estimates on all proposed routes.

5. Any other matter related to the financial and economic impact of a rail passenger network.

(4) Information and data collected during the study under subsection (3) of this section that is requested by a participating state or a consulting firm representing a participating state or the compact may be made available to the state or firm. However, the information shall not include matters not of public record or of a nature considered to be privileged and confidential unless the state providing the information agrees to waive the confidentiality.

(5) The participating states agree to do the following:

(a) Make available to each other and to a consulting firm representing a participating state or the compact assistance that is available, including personnel, equipment, office space, machinery, computers, engineering and technical advice and services.

(b) Provide financial assistance for the implementation of the feasibility study that is available.

SECTION 2. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) The Interstate Rail Passenger Advisory Council, referred to in this compact as the "council", is created. The membership of the council shall consist of three (3) individuals from each participating state. The Governor, the President Pro Tem of the Senate, and the Speaker of the House of Representatives shall each appoint one (1) member of the council.

(2) The council shall do the following:

(a) Meet within thirty (30) days after ratification of this agreement by at least two (2) participating states.

(b) Establish rules for the conduct of the council's business, including the payment of the reasonable and necessary travel expenses of council members.

(c) Coordinate all aspects of the rail passenger financial and economic impact study pursuant to Section 1 (3) of this Act.

(d) Contract with persons, including institutions of higher education, for performance of any part of the study under Section 1 (3) of this Act.

(e) Upon approval of the study, determine the proportionate share that each state will contribute toward the implementation and management of the proposed interstate rail passenger system network.

(f) Make recommendations to each participating state legislature concerning the results of the study required by Section 1 (3) of this Act.

(3) This compact shall become effective upon the adoption of the compact into law by at least two (2) of the participating states and consent by the Congress of the United States. Thereafter, the compact shall become effective for another participating state upon the enactment of the compact by the state.

(4) This compact shall continue in force with respect to a participating state and shall remain binding upon the state until six (6) months after the state has given notice to each other participating state of the repeal of Sections 1 and 2 of this Act. The withdrawal shall not be construed to relieve a participating state from an obligation incurred before the end of the state's participation in the compact.

(5) This compact shall be liberally construed to effectuate the compact's purposes and the provisions of this compact are severable. If:

(a) A phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of a participating state or of the United States; or

(b) The applicability of this compact to a government, an agency, a person, or a circumstance is held invalid,

the validity of the remainder of this compact and the compact's applicability to any government, agency, person, or circumstance shall not be affected.

(6) If this compact is held contrary to the constitution of a participating state, the compact shall remain in effect for the remaining participating states and in effect for the state affected for all severable matters.

Section 3. To carry out the purposes of Sections 1 and 2 of this Act, there shall be appropriated from the general fund in the State Treasury the sum of ten thousand dollars ($10,000) for each fiscal year of the 1992-93 and 1993-94 bienniums.

Section 4. Whereas other states have already ratified this agreement, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 780, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 144.120 is amended to read as follows:

(1) Subject to the provisions of subsections (4), (5), and (6) of this section and KRS 144.130, any certificated air carrier which is engaged in the air transportation of persons or property for hire shall be entitled to a Kentucky sales and use tax credit, as computed in subsection (3) of this section, on aircraft fuel, including jet fuel, purchased after June 30, 1991, for any annual period in which the carrier meets or exceeds the investment ***or*** [~~and~~] fuel purchase qualification requirements prescribed in subsection (2) of this section.

(2) To qualify for the sales and use tax credit provided in subsection (1) of this section, the certificated air carrier shall:

(a) Prior to or during the annual period for which the credit is claimed, have made, caused to be made, or obtained contractual obligations to make, consistent with the fundamental project scope, an investment in the aggregate of at least three hundred million dollars ($300,000,000) in new and expanded air transportation facilities and related equipment in this Commonwealth; ***or*** [~~and~~]

(b) During the annual period for which the credit is claimed, purchase and place into the fuel supply tank of its aircraft in this state not less than ***ninety million (90,000,000)*** [~~one hundred million (100,000,000)~~] gallons of aircraft fuel, including jet fuel, for the carrier's direct operation of the aircraft in interstate or foreign commerce exclusively for the conveyance of property or passengers for hire. Nominal use of the aircraft fuel in intrastate commerce shall not affect this provision.

(3) The sales and use tax credit shall be an amount equal to the Kentucky sales and use tax otherwise applicable to aircraft fuel, including jet fuel, purchased by the certificated air carrier for its storage, use, or other consumption during the annual period, less four million dollars ($4,000,000). The four million dollar ($4,000,000) amount shall be increased to reflect the Kentucky sales and use tax on aviation fuel attributable to operations of any other company purchased, merged, acquired, or otherwise combined with the certificated air carrier after the base period. The amount of the increase shall be based on the Kentucky sales and use tax applicable to such aircraft fuel purchased during the twelve (12) month period immediately preceding the purchase, merger, or other acquisition by or combination with the certificated air carrier.

(4) To facilitate administration of the tax credit provided pursuant to this section, each qualifying certificated air carrier purchasing aircraft fuel, including jet fuel, on which the Kentucky sales and use tax for the annual period is reasonably expected to exceed the amount provided in subsection (3) of this section

shall report and pay directly to the Revenue Cabinet the tax applicable to aircraft fuel, including jet fuel, purchased for its storage, use, or other consumption during the annual period, less the credit provided herein.

(5) Notwithstanding the provisions of subsection (1) of this section, no certificated air carrier shall be entitled to any tax credit pursuant to this section unless the carrier meets the requirements of subsection (2) of this section by the annual period ending in 1997.

(6) Each certificated air carrier claiming the sales and use tax credit authorized pursuant to this section shall file an annual sales and use tax reconciliation report with the Revenue Cabinet on or before the fifteenth day of the fourth month following the end of each annual period for which the credit is claimed. The report shall be filed as provided in KRS 144.137.

Section 2. The provisions of this Act shall be effective for annual periods beginning on or after July 1, 1992.

HCR 159, A CONCURRENT RESOLUTION establishing a task force to study emergency management and response.

WHEREAS, several task forces have studied various aspects of emergency management including earthquake response, environmental emergency response, and fire services; and

WHEREAS, one or more of these studies have resulted in legislation recommending changes within the structure and programs of the Kentucky Division of Disaster and Emergency Services within the Department of Military Affairs.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. (1) The Legislative Research Commission is directed to establish the Kentucky Emergency Management Task Force consisting of the following persons to be chosen in the following manner:

(a) Two (2) members of the House of Representatives to be chosen by the Speaker of the House;

(b) One (1) member of the Senate to be chosen by the President Pro Tempore of the Senate;

(c) The Adjutant General or his designee in writing;

(d) The Executive Director of the Division of Disaster and Emergency Services;

(e) One (1) Disaster and Emergency Services area coordinator to be chosen by the Executive Director of Disaster and Emergency Services;

(f) Two (2) local Disaster and Emergency Services coordinators to be chosen by the Executive Director of Disaster and Emergency Services; and

(g) One (1) representative of the Governor to be chosen by the Governor.

(2) The chairman of the task force shall be named from among the members of the General Assembly on the task force and shall be chosen by the Legislative Research Commission.

Section 2. (1) The task force shall study, report on, and make recommendations upon the following matters:

(a) An identification of all state agencies with a primary or secondary role in emergency management and response to disasters and emergencies;

(b) The current state of preparedness of state agencies for emergency management and response to disasters and emergencies;

(c) An identification of all local agencies and special districts with a primary or secondary role in emergency management and response to disasters and emergencies;

(d) The current state of preparedness of state agencies for emergency management and response to disasters and emergencies;

(e) Cooperation among state agencies in disaster and emergency response, problems with regard thereto, and recommendations for improvement in the situation;

(f) Cooperation among local agencies and special districts in disaster and emergency response, problems with regard thereto, and recommendations for improvement in the situation;

(g) Cooperation among state and local agencies and special district and private agencies in emergency management, disaster and emergency response, problems with regard thereto, and recommendations for improvement in the situation;

(h) The coordinating role of a state emergency management agency for state agencies during disasters, emergencies, and related situations, large and small;

(i) The coordinating role of a local emergency management agency for local agencies and special districts during disasters, emergencies, and related situations;

(j) The respective roles of state and local emergency management agencies during multiple agency response situations and the coordination of these incidents;

(k) The preparedness of state and local governments and special districts to maintain continuity of government during disasters and emergencies, particularly when named officials may be unavailable at short notice;

(l) State, local, and special district responsibilities for search for lost and missing persons, search for missing aircraft, rescue of lost and missing persons, rescue of persons from missing aircraft, cave rescue, search for and recovery of drowning victims, swift water rescue, search and rescue for lost, missing, and injured persons on state property, recommendations for the improvement of these services, recommendations for the assigning of responsibility for these services on a state, local, and special district level;

(m) The location of the state emergency management function within state government, with recommendations as to its placement, role, responsibilities, authority, etc.;

(n) The location of the local emergency management function within local government and special districts, with recommendations as to its placement, role, responsibilities and authority;

(o) Improvement of interlocal cooperation for disasters and emergencies, streamlining of agreements for this type of response, assigning functions; and assuring proper combined solution of the problems caused by the incident;

(p) The design and implementation of a state, local, special district, and private response wide unified incident command or incident management system applicable to all services and localities;

(q) The design and implementation of a unified cross training program for state, local, special district, and private emergency response personnel in incident management, safety, and other subjects when the task force feels the training is necessary;

(r) Design, development, and implementation for a modernized and more easily useable interstate emergency management and response plan;

(s) Modernization of KRS Chapter 39, and modernization and harmonization of KRS Chapter 39 with all other state laws having a bearing upon emergency and disaster response by state, local, special district, and private agencies; and the replacement or amendment of those statutes as necessary; and

(t) Other recommendations the task force deems necessary.

(2) The Task Force shall submit a written report to the Legislative Research Commission no later than September 1, 1993, together with the statutory changes which it deems appropriate.

Section 3. Staff services to be utilized in completing this study are estimated to cost $25,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Substitute to **HCR 159** is as follows:

HCR 159, A CONCURRENT RESOLUTION establishing a task force to study emergency management and response.

WHEREAS, several task forces have studied various aspects of emergency management including earthquake response, environmental emergency response, and fire services; and

WHEREAS, one or more of these studies have resulted in legislation recommending changes within the structure and programs of the Kentucky Division of Disaster and Emergency Services within the Department of Military Affairs.

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. (1) The Interim Joint Committee on State Government shall study, report on, and make recommendations upon the following matters:

(a) An identification of all state agencies with a primary or secondary role in emergency management and response to disasters and emergencies;

(b) The current state of preparedness of state agencies for emergency management and response to disasters and emergencies;

(c) An identification of all local agencies and special districts with a primary or secondary role in emergency management and response to disasters and emergencies;

(d) The current state of preparedness of state agencies for emergency management and response to disasters and emergencies;

(e) Cooperation among state agencies in disaster and emergency response, problems with regard thereto, and recommendations for improvement in the situation;

(f) Cooperation among local agencies and special districts in disaster and emergency response, problems with regard thereto, and recommendations for improvement in the situation;

(g) Cooperation among state and local agencies and special district and private agencies in emergency management, disaster and emergency response, problems with regard thereto, and recommendations for improvement in the situation;

(h) The coordinating role of a state emergency management agency for state agencies during disasters, emergencies, and related situations, large and small;

(i) The coordinating role of a local emergency management agency for local agencies and special districts during disasters, emergencies, and related situations;

(j) The respective roles of state and local emergency management agencies during multiple agency response situations and the coordination of these incidents;

(k) The preparedness of state and local governments and special districts to maintain continuity of government during disasters and emergencies, particularly when named officials may be unavailable at short notice;

(l) State, local, and special district responsibilities for search for lost and missing persons, search for missing aircraft, rescue of lost and missing persons, rescue of persons from missing aircraft, cave rescue, search for and recovery of drowning victims, swift water rescue, search and rescue for lost, missing, and injured persons on state property, recommendations for the improvement of these services, recommendations for the assigning of responsibility for these services on a state, local, and special district level;

(m) The location of the state emergency management function within state government, with recommendations as to its placement, role, responsibilities, authority, etc.;

(n) The location of the local emergency management function within local government and special districts, with recommendations as to its placement, role, responsibilities and authority;

(o) Improvement of interlocal cooperation for disasters and emergencies, streamlining of agreements for this type of response, assigning functions; and assuring proper combined solution of the problems caused by the incident;

(p) The design and implementation of a state, local, special district, and private response wide unified incident command or incident management system applicable to all services and localities;

(q) The design and implementation of a unified cross training program for state, local, special district, and private emergency response personnel in incident management, safety, and other subjects when the task force feels the training is necessary;

(r) Design, development, and implementation for a modernized and more easily useable interstate emergency management and response plan;

(s) Modernization of KRS Chapter 39, and modernization and harmonization of KRS Chapter 39 with all other state laws having a bearing upon emergency and disaster response by state, local, special district, and private agencies; and the replacement or amendment of those statutes as necessary; and

(t) Other recommendations the committee deems necessary.

(2) The Interim Joint Committee shall submit a written report to the Legislative Research Commission no later than September 1, 1993, together with the statutory changes which it deems appropriate.

Section 2. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

HCR 167, A CONCURRENT RESOLUTION authorizing and directing a comprehensive study of a uniform state environmental policy.

WHEREAS, the General Assembly recognizes the need to insure the proper consideration of environmental values and factors during state decision-making to prevent or minimize development impacts on the environment; and

WHEREAS, interaction and coordination between state agencies for reviewing environmental impacts of state-initiated siting and development activities and projects receiving economic incentives does not formally exist; and

WHEREAS, a working committee of the Legislative Research Commission on Kentucky's government created by Senate Concurrent Resolution 83 recommended that environmental protection be given priority in any considerations involving the expenditure of state economic development funds; and

WHEREAS, state agencies need to properly review and assess the environmental effects of their proposed or pending actions to insure all development projects are carried out in the best and most environmentally sound manner;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission shall form a task force to study the environmental impact of state development actions and develop recommendations to establish a process to insure adequate review and assessment of state development activities in order to prevent or minimize damage to the environment and public health and safety.

Section 2. The Legislative Research Commission shall appoint the chairman, who shall be a member of the Interim Joint Committee on Agriculture and Natural Resources, a member of the Interim Joint Committee on Economic Development and Tourism, a member of the Interim Joint Committee on Transportation, two (2) additional members of the General Assembly, a representative of the Kentucky Chamber of Commerce, a representative of the Kentucky Association of Professional Engineers, a representative of the Kentucky Conservation Committee, a representative of Kentuckians for the Commonwealth, a representative of the Kentucky Council of Area Development Districts, a representative of the Kentucky Chapter of the American Planning Association, a representative of the Kentucky Transportation Center, a representative of the Kentucky Academy of Sciences, and three (3) members at large with expertise in environmental policy and programs.

Section 3. The task force, in reviewing state development activities, policies, programs, and economic incentives in Kentucky as they relate to environmental protection, shall hold hearings and take testimony from persons interested in these matters and document all findings. The task force shall research state development activities and procedures and receive information and the assistance of various state agencies as requested.

Section 4. The task force shall issue a report with its findings and recommendations on insuring proper consideration of environmental values during state decision-making to the Legislative Research Commission by September 1, 1993.

Section 5. Staff services to be utilized in operation of the task force are estimated to cost ten thousand dollars ($10,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Substitute to **HCR 167** is as follows:

HCR 167, A CONCURRENT RESOLUTION authorizing and directing a comprehensive study of a uniform state environmental policy.

WHEREAS, the General Assembly recognizes the need to insure the proper consideration of environmental values and factors during state decision-making to prevent or minimize development impacts on the environment; and

WHEREAS, development activities, such as recycling and new technologies, are occurring and are creating new jobs that have a positive, beneficial impact on the environment, as well as the state economy; and

WHEREAS, interaction and coordination between state agencies for reviewing environmental impacts of state-initiated siting and development activities and projects receiving economic incentives does not formally exist; and

WHEREAS, a working committee of the Legislative Research Commission on Kentucky's government created by Senate Concurrent Resolution 83 recommended that environmental protection be given priority in any considerations involving the expenditure of state economic development funds; and

WHEREAS, state agencies need to properly review and assess the environmental effects of their proposed or pending actions to ensure all development projects are carried out in the best and most environmentally sound manner;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. (1) The Legislative Research Commission shall appoint an equal number of members from the Interim Joint Committee on Agriculture and Natural Resources and the Interim Joint Committee on Economic Development to form the Special Subcommittee on Sustainable Development to:

(a) Study the environmental impact of state development actions and develop recommendations to establish a process to ensure adequate and timely review and assessment of state development activities in order to prevent or minimize damage to the environment and public health and safety; and

(b) Identify the number and kinds of jobs in environmental development that are currently available and might be created that result in a positive and beneficial impact on the environment and the economy, and make recommendations to promote the creation of these jobs.

(2) The chair shall be appointed by the Legislative Research Commission from the Interim Joint Committee on Agriculture and Natural Resources.

Section 2. The Special Subcommittee on Sustainable Development, in reviewing state development activities, policies, programs, and economic incentives in Kentucky as they relate to environmental protection, shall hold hearings, take testimony from persons interested in these matters, and document all findings. The special subcommittee shall review state development activities and procedures; research the creation, extent, and potential for environmental jobs; and receive information from and the assistance of various state agencies as requested.

Section 3. The subcommittee shall issue a report with its findings and recommendations on ensuring proper consideration of environmental values during state decision-making to the Legislative Research Commission by September 1, 1993.

Section 4. Staff services to be utilized in operation of the subcommittee are estimated to cost ten thousand dollars ($10,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

SB 205, AN ACT relating to economic assistance for local governments, making an appropriation, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.450 is amended to read as follows:

(1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Assistance Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested in United States Government Securities maturing not later than one (1) year from the date of investment and the income earned from ***the*** [~~such~~] investment shall be prorated for expenditure in coal producing and coal impact counties according to each [~~such~~] county's allocable part in the fund.

(2) Effective July 1, 1981, an amount equal to one-half (1/2) of the tax collected annually on the sale of minerals, exclusive of coal, shall be transferred from the general fund into this fund. ***The*** [~~Such~~] transfers shall be made quarterly[~~.~~

~~(3) Effective July 1, 1981, an amount equal to one-half (1/2) of the severance and processing taxes on coal collected annually, in excess of $177.6 million, shall be transferred from the general fund into this fund. However, in no event shall the amount transferred from the general fund into this fund for fiscal year 1986-87 be less than ten percent (10%) of the total severance and processing taxes on coal collected in fiscal year 1986-87, and in no event shall the amount transferred from the general fund into this fund for fiscal year 1987-88 and all subsequent fiscal years be less than twelve percent (12%) of the total severance and processing taxes on coal collected in fiscal year 1987-88 and in each respective subsequent fiscal year. Such transfers shall be made quarterly~~], based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.

Section 2. KRS 42.455 is amended to read as follows:

(1) There is established within the Department of Local Government a Local Government Economic Assistance Program to consist of a system of grants to local governments to improve the environment for new industry and to improve the quality of life for the residents.

(2) Grants obtained under this program shall be used for priority expenditures. Thirty percent (30%) of all moneys in the fund shall be spent on the coal haul road system as described in subsection (7) of this section. The remaining seventy percent (70%) of the fund shall be spent on priority categories limited to the following***, but in no event shall grants obtained under this program be used for expenses related to administration of government***:

(a) Public safety, including law enforcement, fire protection, ambulance service and other related services;

(b) Environmental protection, including sewage disposal, sanitation, solid waste and other related programs;

(c) Public transportation, including mass transit systems, streets and roads;

(d) Health;

(e) Recreation;

(f) Libraries and educational facilities;

(g) Social services for the poor, aged, and handicapped;

(h) [~~Financial administration and governmental management programs;~~

~~(i)~~] Industrial and economic development; and

(i)[~~(j)~~] Vocational education.

(3) The use of entitlement funds for repayment of debt as related to long-term bond issues is permissible as long as the revenue from the bond issues is expended on priority categories.

(4) Grants obtained under this program may be used as local portion to secure federal programs as long as program expenditures are in the priority category area. Interest earned on funds received by local units of government shall be considered available for use by the local unit of government in the priority expenditure categories.

(5) The Department of Local Government shall be responsible for the promulgation of rules and regulations necessary to implement the grants programs authorized by this section.

(6) The Department of Local Government shall assure that a public hearing is held on the expenditure of funds received under KRS 42.450 to 42.495. Advertisement of the public hearing shall be published at least once but may be published two (2) or more times, provided that one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing. The department shall submit an annual report to the Governor indicating how the grants were used and an evaluation of the program's effectiveness in improving the economy of the units of government receiving assistance.

(7) On or before August 15, 1980, and each year thereafter, the Transportation Cabinet shall publish and furnish to the Department of Local Government a directory, including supporting maps and other documents, designating the official state coal road system in coal impact and coal producing counties which shall include all public highways, roads, and streets over which quantities of coal, sufficient to significantly affect the condition and state of repair of such highways, roads and streets, have been transported in the immediately preceding fiscal year. The cabinet shall further publish the total county mileage of the official state coal road system and the total ton/miles within each coal impact and coal producing county for said preceding fiscal year.

(8) Every person shipping or transporting coal, and every carrier for hire or common carrier hauling coal over the public highways, roads and streets shall file with the Transportation Cabinet such information and at such intervals as the department shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal haul road system and the quantities of coal transported thereon, in order that the cabinet can accurately calculate total ton/miles within each coal impact and coal producing county.

(9) The Revenue Cabinet shall make available to the Transportation Cabinet coal severance and processing tax data for use in verifying and supplementing the information furnished under the provisions of subsection (8) of this section. The information shall be furnished in such a manner as to conceal the identity of individual taxpayers; ***if*** [~~in the event~~] the data cannot be furnished without revealing the identity of individual taxpayers, it shall be withheld.

Section 3. KRS 42.470 is amended to read as follows:

Moneys in the local government economic assistance fund shall be allocated among the counties as follows:

(1) Funds allocated under ***Section 5 of this Act*** [~~KRS 42.450(3)~~]:

(a) Sixty percent (60%) shall be distributed to each coal producing county on the basis of the ratio of tax collected on coal severed in each respective county to the tax collected statewide.

(b) Thirty percent (30%) shall be distributed to each coal producing county on the basis of per capita income (inverse order), ton miles of resource roads and population, equally weighted.

(c) Ten percent (10%) shall be distributed to non-coal producing counties impacted by the transport of coal on the basis of geographic area, ton miles of resource roads, and per capita income (inverse order), weighted on a basis of 30/100, 40/100, and 30/100, respectively. The expenditure of such funds shall be limited to the categories of projects set out in KRS 42.455 (2)(c). To qualify for the funds distributed under the provisions of this paragraph, a county must have within its geographic boundaries twenty-five hundredths of one percent (.25%) of the total ton miles within coal impact counties.

(2) All funds allocated under KRS 42.450(2) shall be distributed among the mineral producing counties on the basis of the tax collected on minerals severed in each respective county.

SECTION 4. A NEW SECTION OF KRS CHAPTER 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the State Treasury a fund entitled "Local Government Economic Development Fund." The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallotted or unencumbered balances in the fund shall be invested as provided for in KRS 42.500(6). Income earned from the investments shall be prorated for grants to counties according to the allotment schedule set out in Section 7 of this Act.

(2) Moneys shall be transferred from the general fund into this fund according to the following schedule:

(a) Effective July 1, 1992, an amount equal to fifteen percent (15%) of the severance and processing taxes on coal collected annually;

(b) Effective July 1, 1993, an amount equal to eighteen percent (18%) of the severance and processing taxes on coal collected annually;

(c) Effective July 1, 1994, an amount equal to twenty-five percent (25%) of the severance and processing taxes on coal collected annually; and

(d) Effective July 1, 1995, an amount equal to fifty percent (50%) of the severance and processing taxes on coal collected annually.

The transfers shall be made quarterly, based upon the revenue estimates prevailing at the time each quarterly transfer is due, except that the last quarterly transfer shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual transfer required by this subsection.

SECTION 5. A NEW SECTION OF KRS CHAPTER 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

(1) A portion of each quarterly transfer of moneys provided for in Section 4 of this Act shall be transferred from the local government economic development fund into the local government economic assistance fund according to the following schedule:

(a) Effective July 1, 1992, an amount equal to eighty percent (80%) of each quarterly transfer;

(b) Effective July 1, 1993, an amount equal to sixty-six and seven-tenths percent (66.7%) of each quarterly transfer;

(c) Effective July 1, 1994, an amount equal to forty-eight percent (48%) of each quarterly transfer; and

(d) Effective July 1, 1995, an amount equal to twenty-four percent (24%) of each quarterly transfer.

The transfers shall be made quarterly.

(2) The amount transferred annually from the local government economic development fund into the local government economic assistance fund under the provisions of subsection (1) of this section shall not be less than an amount equal to twelve percent (12%) of the severance and processing taxes on coal collected annually.

SECTION 6. A NEW SECTION OF KRS CHAPTER 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the Kentucky Development Finance Authority a local government economic development program to consist of a system of grants to counties to attract new industry.

(2) Grants obtained under this program shall be used for:

(a) Industrial development projects if an industrial firm has agreed with the local government, to the satisfaction of the Kentucky Development Finance Authority, to develop, in conjunction with the industrial development project, manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development; and

(b) Industrial development projects if the secretary of the Cabinet for Economic Development finds that the project is necessary for the creation of an environment for new industry in order to obtain an agreement from an industrial firm to develop manufacturing, processing, assembling, or other facilities approved by the secretary of the Cabinet for Economic Development.

(c) Debt service on bonds issued under the provisions of KRS 65.270 or KRS 103.200 to 103.285 for industrial development projects, as defined in subsection (2)(a) and (b) of this section, or for facilities approved by the secretary of the Cabinet for Economic Development under the provisions of subsection (3) of this section.

(3) The secretary of the Cabinet for Economic Development may approve facilities, other than manufacturing, processing, or assembling facilities, for industrial development projects when the secretary finds that the facility will add value to a product. Value-added facilities shall include data processing, telecommunication, and distribution facilities, but shall not include retail facilities or coal mining, coal processing, or coal transportation facilities. The secretary may also approve privately-owned facilities for transient lodging and recreation where the secretary finds that the cost of the recreation component of the facility is equal to, or greater than, the cost of the lodging component of the facility. The criteria for approval of applications for grants provided for in paragraphs (a), (b), and (c) of subsection (9) of this section shall be paramount in the case of lodging and recreational facilities.

(4) Applications for grants from funds provided for in subsection (1)(a) and (b) of Section 7 of this Act shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund. Applications for grants from funds provided for in subsection (1)(c) of Section 7 of this Act shall be made by the legislative bodies of two (2) or more counties with accounts in the local government economic development fund. No grant shall be awarded without application for a grant.

(5) A grant may be awarded for an industrial development project located in a county that does not have an account in the local government economic development fund, if the secretary of the Cabinet for Economic Development finds that the industrial development project may be reasonably expected to create jobs for residents of the local unit or units of government applying for the grant. Application for the grant shall be made by the legislative bodies of one (1) or more counties with accounts in the local government economic development fund.

(6) With the exception of grants awarded to service debt on bonds, as provided for in subsection (2)(c) of this section, grants awarded from funds provided for in subsection (1)(a) and (b) of Section 7 of this Act shall not exceed the total balance of the accounts of the applicant counties at the time of the award of the grant.

(7) Grants awarded under the provisions of subsection (2)(c) of this section may be for a period not to exceed thirty (30) years, and shall be limited to an annual amount not to exceed twenty-five percent (25%) of the amount estimated to be allocated to the applicant county or counties for the current fiscal year under the provisions of subsection (1)(a) and (b) of Section 7 of this Act.

(8) Approval of grant applications shall be by the secretary of the Cabinet for Economic Development. Award of grants shall be by the Kentucky Development Finance Authority.

(9) Criteria for approval of applications and the award of grants shall be based upon the following:

(a) The number of jobs to be created or preserved, directly or indirectly, by the industrial development project;

(b) Payrolls, and the taxes generated, both at the state and local levels, by the industrial development project and taxes generated by the employment created or preserved by the industrial development project;

(c) The size, nature, and cost of the industrial development project, including the prospect of the industrial development project providing long-term jobs in enterprises consistent with the changing economies of the affected local units of government;

(d) The needs, and degree of needs, of the local units of government which will be affected by the industrial development project;

(e) The needs of any industrial firm benefiting from the industrial development project;

(f) The amount and kind of assistance, if any, available to an industrial firm from other government agencies through tax exemption or abatement, financing assistance through industrial development bonds, and otherwise, with respect to the industrial development project;

(g) The amount of capital made available to the facility by lenders and by the industrial firm; and

(h) The economic feasibility of the facility.

(10) For purposes of this section:

(a) "Industrial development project" means and includes the acquisition of any real estate and the construction, acquisition, and installation thereon and with respect thereto of improvements and facilities necessary and useful for the improvement of the real estate for conveyance to or lease to industrial firms to be used for manufacturing, processing, or assembling purposes, including surveys; site tests and inspections; subsurface site work; excavation, removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage; storm water retention; installation of utilities, such as water, sewer, sewage treatment, gas electricity, communication, and other similar facilities; off-site construction of utility extensions to the boundaries of the real estate; construction and installation of buildings, including buildings to be used for worker training and education; rail facilities; roads; sidewalks; curbs; and other improvements to the real estate necessary to its manufacturing, processing, assembling, or other approved use by industrial entities; and

(b) "Industrial firm" means any corporation, partnership, person, or other legal entity, whether domestic or foreign, which will itself or through its subsidiaries and affiliates construct and develop a manufacturing, processing, assembling, or other approved facility on the site of an industrial development project financed pursuant to this section.

(11) Findings by the secretary of the Cabinet for Economic Development, provided for in subsections (2)(b), (3) and (5) of this section, shall be made in writing to the affected counties, the Governor, and the Legislative Research Commission.

(12) By October 1 of each odd-numbered year, the secretary of the Cabinet for Economic Development shall provide, in writing, to the Governor and the Legislative Research Commission a listing of all applications for grants received pursuant to this section subsequent to the last report, indicating which applications were approved or disapproved, with the reason for disapproval when the decision was to disapprove, and a listing of all grants awarded, with the amount of the award, the recipient county, and the related industrial development project.

SECTION 7. A NEW SECTION OF KRS CHAPTER 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

(1) Moneys remaining in the local government economic development fund following the transfer of moneys to the local government economic assistance fund provided for in Section 5 of this Act shall be allocated as follows:

(a) Thirty-three and one-third percent (33 1/3%) shall be allocated to each coal producing county on the basis of the ratio of total tax collected in the current and preceding four years on coal severed in each respective county to the total tax collected statewide in the current and four (4) preceding years.

(b) Thirty-three and one-third percent (33 1/3%) shall be allocated quarterly to each coal producing county on the basis of the following factors, which shall be computed for the current and four (4) preceding years, and which shall be equally weighted:

1. Percentage of employment in mining in relation to total employment in the respective county;

2. Percentage of earnings from mining in relation to total earnings in the respective county; and

3. Surplus labor rate.

(c) Thirty-three and one-third percent (33 1/3%) shall be reserved for expenditure for industrial development projects benefiting two or more coal producing counties.

(2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of employment in mining" and "percentage of earnings from mining" shall be the percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Department of Employment Services in the Cabinet for Human Resources, as provided in paragraph (b) of this subsection.

(b) 1. Each year the Department for Employment Services shall estimate surplus labor for each county and for the Commonwealth, and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.

2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Department of Employment Services may consult with knowledge individuals including, but not limited to, the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.

3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.

(3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Department of Local Government.

SECTION 8. A NEW SECTION OF KRS CHAPTER 42.450 TO 42.495 IS CREATED TO READ AS FOLLOWS:

The Department of Local Government may promulgate administrative regulations to implement the provisions of Section 4, 5, or 7 of this Act. The Cabinet for Economic Development or the Kentucky Development Finance Authority may promulgate administrative regulations to implement the provisions of Section 6 of this Act.

Section 9. KRS 42.460 is amended to read as follows:

Except as provided in subsection (4)(b) of KRS 91A.040, any assistance granted under KRS 42.450 to 42.495 shall include an agreement that an independent annual audit shall be conducted and that the audit report shall include a certification that the funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the Department of Local Government***, in the case of assistance granted from the local government economic assistance fund, or to the Cabinet for Economic Development and the Kentucky Development Finance Authority, in the case of assistance granted from the local government economic development fund,*** within eighteen (18) months after the end of the fiscal year.

Section 10. KRS 42.480 is amended to read as follows:

(1) On or before July 1, ***1992*** [~~1981~~], and each year thereafter, the commissioner of the Department of Local Government, shall provide the ***Cabinet for Economic Development, the Kentucky Development Finance Authority, and the*** legislative body of each local government eligible for funds under the provisions of KRS 42.450 to 42.495, an estimate of the funds that will be allocated to the local government for fiscal year ***1992-93*** [~~1981-82~~], and each year thereafter.

(2) On or before the fifteenth (15th) of the first month of a quarter, the commissioner of the Department of Local Government, shall cause to be remitted to the legislative bodies of the local governments eligible for funds ***from the local government economic assistance fund*** [~~under the provisions of KRS 42.450 to 42.495~~], the funds allocated to the respective local governments for the prior quarter; except that the remittance for the last quarter of a fiscal year shall be made after the close of the fiscal year accounting records, and shall be adjusted to provide the balance of the annual allocation due the local government.

Section 11. KRS 42.495 is amended to read as follows:

(1) ***If*** [~~In the event that~~] a qualifying local government unit reduces its general tax effort for any fiscal year, below the level of fiscal year ***1991-92*** [~~1979-80~~], that governmental unit shall forfeit funds that would otherwise be available under the provisions of KRS 42.450 to 42.495 on a dollar-for-dollar basis.

(2) For purposes of this section, "general tax effort" shall mean the total revenues raised in fiscal year ***1991-92*** [~~1979-80~~] from the levy of all of the taxing district's taxes in fiscal year ***1991-92*** [~~1979-80~~]. Taxes based upon the ***1991*** [~~1979~~] assessment of property shall be considered to be taxes levied and collected for fiscal year ***1991-92*** [~~1979-80~~].

Section 12. KRS 154.005 is amended to read as follows:

It shall be the purpose of this chapter to create a body corporate and politic to be known as the "Kentucky development finance authority" which shall exist and operate to help diversify the economy of this state, ***including the economies of the coal producing regions of this state,*** to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to foster export activity, to foster economic development on surface mining land, and to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, health care and health related facilities, export markets and export activities, industry and industrial buildings and facilities, tourism and tourist facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water, and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment. Such purposes shall be public purposes for which public money may be spent.

Section 13. KRS 154.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Authority" means the Kentucky Development Finance Authority;

(2) "Cabinet" means the Economic Development Cabinet;

(3) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing improvements to land, including leasehold improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;

(4) "Industrial entity" means any corporation, partnership, person, or any other legal entity, domestic or foreign, which will itself or through its subsidiaries or affiliates, engage in an industrial improvement project in the Commonwealth of Kentucky;

(5) ***"Industrial firm" means industrial firm as defined in subsection (10)(b) of Section 6 of this Act.***

(6) "Industrial improvement project" means and includes the acquisition, construction, or implementation of new manufacturing, processing, or assembling facilities, equipment, methods of processes, or improvements to or repair of existing manufacturing, processing, or assembling facilities, equipment, methods, or processes, as well as improvements to the real estate upon which the facilities are located, and includes any capital improvement to any existing facility, including any restructuring, retooling, rebuilding, reequipping, or any other form of upgrading such existing facility and equipment and any other improvements to such real estate, existing facility, or manufacturing, processing, or assembling equipment, method or process;

(7)[~~(6)~~] ***"Industrial development project" means industrial development project as defined in subsection (10)(a) of Section 6 of this Act.***

(8) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing, or any entity created by two (2) or more municipalities pursuant to the Interlocal Corporation Act, KRS 65.210 to 65.300;

(9)[~~(7)~~] "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

(10)[~~(8)~~] "Private sector" means other source than the authority, a state or federal source, or an agency thereof;

(11)[~~(9)~~] "Project" means an endeavor approved by the Cabinet for Economic Development and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports and airport renovation; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydroelectric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. ***Project shall include industrial development projects, financed out of the local government economic development fund through the local government economic development program.*** Except for airport related facilities project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

(12)[~~(10)~~] "Reclamation development fund" means the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land;

(13)[~~(11)~~] "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under subsection ***(11)***[~~(9)~~] of this section;

(14)[~~(12)~~] "Reclamation development plan" means a plan submitted to the Natural Resources and Environmental Protection Cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project;

(15) "Local government economic development fund" means the fund established under the provisions of Section 4 of this Act.

(16) "Local government economic development program" means the program established under the provisions of Section 6 of this Act.

(17)[~~(13)~~] "State" means the Commonwealth of Kentucky; and

(18)[~~(14)~~] "Tax revenues" means any revenues received by the Commonwealth directly or indirectly as a result of the industrial improvement project, including state corporate income taxes, state income taxes paid by employees who work in the project, state property taxes, state corporation license taxes or state sales and use taxes.

Section 14. KRS 154.041 is amended to read as follows:

The authority shall have the powers necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of this chapter, the purposes and objectives of the authority, and the powers delegated by other laws, ***including the provisions of Sections 6 and 8 of this Act,*** or executive orders, including, but not limited to, the power to:

(1) Sue and be sued; to have a seal and alter the same at pleasure; to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and to make and amend bylaws;

(2) Solicit and accept gifts, grants, loans, and other aids from any person or the federal, state, or a municipality or any agency of the federal, state, or a municipality, or to participate in any other way in any federal, state, or local government program;

(3) Make grants, loans, and investments; to guarantee and insure loans, leases, bonds, notes, or other indebtedness, whether public or private; and to issue letters of credit;

(4) Construct, acquire by gift, purchase, installment purchase, or lease; and reconstruct, improve, repair, or equip a project or any part of a project;

(5) Borrow money and issue bonds and notes to finance part or all of the costs of a project, or of a loan pursuant to subsection (18) of this section for an export transaction, and to secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. The authority provided by this subdivision shall include, but is not limited to, issuing bonds and notes to acquire and install machinery, equipment, furnishings, and other personal property, notwithstanding that the authority does not

own or propose to own or finance the building or land in or near to which the machinery, equipment, furnishings, and other personal property is or is to be located;

(6) Acquire or contract to acquire from any person, municipality, the federal or state government, or any agency of the foregoing, or otherwise, leaseholds, real or personal property or any interest in real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber leaseholds, real or personal property or any interest in real or personal property, as is convenient for the accomplishment of the purposes of this chapter and of the authority;

(7) Procure insurance against any loss in connection with the authority's property, assets, or activities;

(8) Invest any money of the authority, prior to the time it may be needed for the authority's programs, at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for its money;

(9) Engage personnel as necessary and engage the services of private consultants, managers, counsel, auditors, engineers, and scientists for rendering professional management and technical assistance and advice, payable out of any money of the authority legally available for this purpose;

(10) Charge, impose, and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges;

(11) Indemnify and procure insurance indemnifying any members of the authority from personal loss or accountability from liability asserted by a person on the bonds or notes of the authority or any personal liability or accountability by reason of the issuance of the bonds, notes, insurance, or guarantees; by reason of acquisition, construction, ownership, or operation of a project; or by reason of any other action taken or the failure to act by the authority;

(12) Enter into a lease for the use or sale of a project. The lease may provide for options to purchase or renew;

(13) Mortgage or create security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid thereunder, in favor of the holders of the bonds or notes issued by the authority;

(14) Convey or release a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under terms and conditions provided in the agreement or as may be agreed with the holders of the bonds or notes, at any time the obligation of the lessee, purchaser, or borrower to make the payments prescribed shall remain fixed as provided in the agreement notwithstanding the conveyance or release, or as may otherwise be agreed with the holders of the bonds or notes;

(15) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclose on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property which was the subject of the mortgage at a foreclosure or other sale, acquire or take possession of the property and, in that event, complete, administer, pay the principal and interest on obligations incurred in connection with the property, and dispose of and otherwise deal with the property, in a manner as may be necessary or desirable to protect the interests of the authority;

(16) Create accounts and funds as required or permitted by law for the use and disbursement of assets of the authority;

(17) Contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the authority;

(18) Make loans to a financial institution to facilitate financing of all or part of an export related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;

(19) Administer the reclamation development fund;

(20) Promulgate administrative regulations governing its proceedings;

(21) Make loans for airport construction and renovation;

(22) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this chapter, or other laws that relate to the purposes and responsibilities of the authority.

Section 15. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer, as required by this chapter and regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land.

(19) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.010***(11)***[~~(9)~~].

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

Section 16. Moneys in the local government economic development fund and the local government economic assistance fund are hereby appropriated, and shall be treated as a continuing appropriation and shall not lapse at the end of the fiscal year.

Section 17. Whereas, the General Assembly finds it essential to effectuate the provisions of this Act prior to the normal effective date for legislation, an emergency is declared to exist, and this Act shall become effective July 1, 1992.

The Committee Amendment No. 1 to **SB 205** is as follows:

Amend printed copy of **SB 205/GA** on page 16, line 14, after the period following the word "***counties***" by adding the following:

"***For purposes of this paragraph, "coal producing county" shall mean a county which has produced coal in the current or any one of the four (4) preceding years.***".

The Committee on Appropriations and Revenue reported **SB 35** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 35, AN ACT relating to creation of the Kentucky Long-Term Policy Research Center, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 7B IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that:

(1) The growing complexity and interdependence of the modern world, demonstrated by such issues as global environmental change, changing workforce development needs, the aging population, international trade, the number of working poor, the need for improved access to health care, and the emergence of fundamental changes in the role of government, require that government decision-makers consider the long-term changes affecting the welfare of the Commonwealth of Kentucky and bring these factors to bear upon public policy;

(2) There is a need to coordinate state government's information resources to provide a systematic and comprehensive use of that information to guide policymakers concerning critical trends and alternative futures;

(3) To effect a prosperous future for the Commonwealth and its citizens, it is necessary for changes to occur in the way decisions are made in government so policymakers can consider the long-term implications of decisions and address emerging issues so the Commonwealth can take advantage of opportunities, avoid problems, and provide for continuity in policy; and

(4) It is necessary to establish mechanisms to bring all perspectives into the decision-making process to evaluate information, focus attention on areas in which information is inadequate, and identify critical trends and alternative futures based upon the best available information.

SECTION 2. A NEW SECTION OF KRS CHAPTER 7B IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Long-Term Policy Research Center is hereby established. The center shall be governed by a board with representation from the executive and legislative branches of state government and the private and civic sectors, universities, and local governments.

(2) The center shall be an agency and instrumentality of the Kentucky General Assembly.

(3) The board shall employ and fix the compensation of an executive director who shall be its secretary and principal executive officer.

SECTION 3. A NEW SECTION OF KRS CHAPTER 7B IS CREATED TO READ AS FOLLOWS:

(1) The board of the Kentucky Long-Term Policy Research Center shall consist of twenty-one (21) members, including ten (10) members selected from state government and eleven (11) at-large members selected from the private and civic sectors, universities, and local governments.

(a) State government members shall be appointed as follows:

1. Three (3) members of the House of Representatives and three (3) members of the Senate shall be appointed by the Legislative Research Commission; and

2. Four (4) members from the executive branch shall be appointed by the Governor.

(b) At-large members shall be appointed as follows:

1. Five (5) members shall be appointed by the Legislative Research Commission and confirmed by the House of Representatives and the Senate; and

2. Six (6) members shall be appointed by the Governor and confirmed by the House of Representatives and the Senate;

3. Initial at-large appointees may serve prior to confirmation; thereafter, persons appointed to fill expired terms of at-large members shall be confirmed prior to assuming board membership, and board members with expiring terms shall serve until their replacements have been confirmed;

4. Persons appointed to fill vacancies in unexpired terms of at-large members may serve prior to confirmation, but shall continue to serve only if confirmed at the next regular session, or special session if the matter is included in the call therefor of the General Assembly;

5. The provisions of KRS 11.160 shall apply to Senate and House of Representatives confirmation of at-large members appointed by the Legislative Research Commission and the Governor.

(2) Board members shall serve four (4) year terms, except initial appointments shall be for terms as follows:

(a) The Legislative Research Commission shall initially appoint two (2) legislators for terms of two (2) years, two (2) legislators for terms of three (3) years and two (2) legislators for terms of four (4) years; and shall initially appoint one (1) at-large member for a two (2) year term, two (2) at-large members for three (3) year terms, and two (2) at-large members for four (4) year terms.

(b) The Governor shall initially appoint two (2) members from the executive branch for terms of two (2) years, one (1) for a three (3) year term, and one (1) for a four (4) year term, and shall initially appoint two (2) at-large members for terms of two (2) years, two (2) for three (3) year terms, and two (2) for four (4) year terms.

(3) Members of the board shall meet the same age and state residency requirements as provided in Section 32 of the Kentucky Constitution for members of the House of Representatives, shall represent the cultural diversity of Kentucky, and shall have demonstrated an interest in the well-being and development of the Commonwealth.

(4) The chair shall be elected annually by the board and shall alternate between the members selected from state government and the at-large members. If the chair is a member selected from state government, the vice chair shall be an at-large member, and if the chair is an at-large member, the vice chair shall be a member selected from state government.

(5) Board members who miss three (3) consecutive meetings shall be automatically removed from the board, the position shall be declared vacant and shall be filled in the same manner as it was originally appointed.

(6) If vacancies are not filled by the original appointing authority within thirty (30) days of the occurrence of the vacancy, the board shall fill the vacancy.

SECTION 4. A NEW SECTION OF KRS CHAPTER 7B IS CREATED TO READ AS FOLLOWS:

(1) The board may:

(a) Use studies, surveys, plans, data, and other materials in the possession of any state agency. Upon request by the board, an agency shall make materials available to the board;

(b) Promulgate, pursuant to KRS Chapter 13A, administrative regulations necessary to carry out its planning and advisory functions as provided by this chapter;

(c) Conduct public hearings in furtherance of its general purposes at places designated by the board, at which it may request the appearance of officials of any state agency and solicit the testimony of interested groups and the general public;

(d) Establish advisory committees to assist in implementing the requirements of this chapter;

(e) Enter into contracts, pursuant to KRS Chapters 45 and 45A, necessary for the administration of this chapter;

(f) Disburse moneys accruing to the center's restricted agency fund account to pay for the expenses and operation of the center and to carry out the purposes of this chapter;

(g) Engage consultants, actuaries, managers, legal counsel, and auditors, to render professional, managerial, and technical assistance, as needed;

(h) Enter into agreements, as necessary, with any institution of higher education, the Commonwealth of Kentucky, any state or federal agency, or other entity;

(i) Solicit and accept grants, gifts, legislative appropriations, or other moneys from the Commonwealth, any unit of federal, state, or local government, or any other person, firm, partnership, or corporation.

(2) At the request of the board, officials or personnel of any state agency, as well as any other person, may serve on advisory committees created by the board. State officials or personnel may serve on the committees without forfeiture of office or employment, and with no loss or diminution in the compensation, status, rights, and privileges they otherwise enjoy.

(3) Members of the board who are otherwise compensated by the Commonwealth shall receive no additional compensation as members of the board or for attendance at meetings. Members who are not otherwise compensated by the Commonwealth shall receive a per diem of one hundred dollars ($100) for attendance at each board meeting.

(4) All board members may be reimbursed for travel and other expenses incurred in carrying out board responsibilities. The scope of travel shall not be limited to the confines of the Commonwealth, but may extend to any place outside the Commonwealth, if authorized by the board by motion, resolution, or directive reciting the destination, necessity, and persons authorized to travel.

SECTION 5. A NEW SECTION OF KRS CHAPTER 7B IS CREATED TO READ AS FOLLOWS:

(1) The executive director of the Kentucky Long-Term Policy Research Center shall serve at the pleasure of the center's board.

(2) The executive director may employ staff, incur travel and other miscellaneous expenses, and authorize staff travel as necessary to carry out the duties of the center, within the limits of funds appropriated or otherwise made available to it.

(3) Employees of the center shall be employees of the legislative department and shall be exempted from classified service, but entitled to the same benefits as other employees of the Commonwealth.

(4) With approval of the board, the executive director may enter into agreements with any state agency or political subdivision of the state, any institution of higher education, or any other person or entity to enlist staff assistance to implement the provisions of this chapter.

(5) The executive director shall supervise the allocation of the work and activities of all employees of the center.

SECTION 6. A NEW SECTION OF KRS CHAPTER 7B IS CREATED TO READ AS FOLLOWS:

(1) The purpose of the Kentucky Long-Term Policy Research Center is to serve as a catalyst to change the way decisions are made in government by providing decision-makers a broader context in which to make decisions, taking into consideration the long-term implications of policy, critical trends, and emerging issues which may have a significant impact on the state.

(2) At the direction of the board, the center shall:

(a) Establish a statewide scanning program to review information sources and identify emerging issues for the Commonwealth, and regularly provide the program's findings to the legislative and executive branches;

(b) 1. Prepare biennially a report on trends in the Commonwealth and the long-term implications of those trends;

2. As part of the report, sponsor a public forum to review the findings of the trends report and obtain reactions from executive branch agencies, legislative committees, private sector representatives, and the public;

3. Include in the report a record of the trends, long-term implications, and reactions, to be completed by December 31 of even-numbered years and presented to the organizational session of the General Assembly, to the Governor, and to the public; and

4. The biennial trends report shall be given affirmative consideration by the agencies and branches of state government when those agencies and branches are determining budget priorities;

(c) Identify long-term issues significant to the Commonwealth by using a methodology involving a broad spectrum of citizens and establish annual work plans focusing on the priority issues approved by the board. Studies shall include the potential long-term effects of current trends and policies and shall identify future policy options;

(d) Periodically prepare a report on alternative futures facing the Commonwealth for a five (5) or ten (10) year period, or for a period deemed appropriate by the board;

(e) Advise the General Assembly and the Governor of potential long-term effects of government policies;

(f) Develop an information process to inform the public continually on long-term issues, critical trends, and alternative futures;

(g) Develop a data base for trend identification.

SECTION 7. A NEW SECTION OF KRS CHAPTER 7B IS CREATED TO READ AS FOLLOWS:

(1) The center shall serve as a mechanism for coordinating resources and groups to focus on long-term planning;

(2) The center shall solicit input from the Legislative Research Commission, the Governor's Office for Policy and Management, universities, the private sector and the public, including local governments and area development districts;

(3) The Governor's Office for Policy and Management and the Legislative Research Commission shall biennially submit to the center a list of issues solicited from the program cabinets of the executive branch and co-chairs of interim legislative committees, respectively. The center shall include these issues in its broad-based efforts to determine priority study areas;

(4) A representative from the Governor's Office for Policy and Management and a legislator appointed by the Legislative Research Commission shall be invited to serve on each advisory committee;

(5) The board may enter into agreements with state agencies and institutions of higher education to provide staff on a time-limited basis for specific research projects;

(6) The center shall:

(a) Ensure that if departments or agencies of state government have responsibilities in an area of policy under study, they are encouraged to comment on the potential effects of government policies on critical trends and alternative futures;

(b) Consider the comments of the departments and agencies in performing its duties under this chapter; and

(c) Include the official comments of the departments and agencies in any report provided to the Governor and the Legislative Research Commission.

(7) Findings and recommendations in the studies of the center shall be delivered to the Governor and the Legislative Research Commission for referral to the appropriate agency and interim committee. The head of the state agency or program to which the report pertains and the co-chairs of the interim legislative committees with jurisdiction shall give affirmative consideration to the report by a written response to the center within sixty (60) days, stating the action that shall be taken in response to the report.

(8) (a) As the branches propose drafts of uniform forms to be used by all budget units pursuant to KRS 48.040(1), they shall provide for the affirmative consideration of the trends set forth by the biennial trends report of the center;

(b) As the Legislative Research Commission prescribes the uniform forms, records, and instructions to be used by branch budget units, it shall incorporate a requirement that agencies explain how their budget priorities address the trends and long-term policy implications set forth in the biennial trends report of the center.

SECTION 8. A NEW SECTION OF KRS CHAPTER 7B IS CREATED TO READ AS FOLLOWS:

(1) The operation of the center shall be funded from the restricted agency fund established in subsection (3) of this section.

(2) There is hereby established a fiduciary fund to be entitled the Kentucky Long-Term Policy Research Center Fund. The fund may receive appropriations, gifts, grants, and federal funds. Moneys in the fund shall not lapse back to the General Fund at the end of any fiscal year. Moneys in the fund shall be invested

by the Office of Financial Management and Economic Analysis, consistent with the provisions of KRS Chapter 42.

(3) A restricted agency fund account is established to receive the interest on the fiduciary fund and any other resources made available to the center. Interest from the fiduciary fund shall be credited to the restricted agency fund account on a monthly basis for the center's operations. Moneys in the account shall be invested by the Office of Financial Management and Economic Analysis, consistent with the provisions of KRS Chapter 42.

(4) Any appropriation by the General Assembly to the fiduciary fund shall remain intact and shall not be available to the board, and should the center and its functions terminate, the principal and any remaining interest from other accumulated funds shall revert to the general fund of the Commonwealth or to the donor.

Section 9. There is hereby appropriated out of the general fund, the sum of two hundred thousand dollars ($200,000) for fiscal year 1992-93, and the sum of three hundred thousand dollars ($300,000) for fiscal year 1993-94 to the restricted agency fund established pursuant to Section 8 of this Act. There is hereby appropriated out of the general fund, from unexpended fiscal year 1991-92 appropriations that would otherwise lapse to the credit of the general fund surplus account at the close of the fiscal year 1991-92, a sum up to one million dollars ($1,000,000) to the Kentucky Long-Term Policy Research Fund, as provided for in Section 8 of this Act. For the 1992-93 fiscal year the Legislative Research Commission shall furnish space, equipment, and incidentals necessary for the operation of the center.

The Committee on Business Organizations and Professions reported **HB 831**, with Committee Substitute attached thereto, **HB 853**, **HB 902** and **SB 250**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 831, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 528.130 is amended to read as follows:

(1) The status of "charitable gaming" shall be a defense to any prosecution under this chapter only if the charitable or religious organization or institution or fraternal society, and the charitable gaming activity conducted thereby:

(a) Shall have registered with the county clerk's office in compliance with KRS 528.140; and

(b) Shall conform in full to the requirements of this section.

(2) The organization conducting the gaming activity, and receiving the proceeds therefrom, shall maintain a charitable or religious or fraternal society tax exemption according to the Federal Internal Revenue Code*,* [~~and~~] shall have maintained federal tax-exempt status for a period of five (5) years prior to any gaming activity prosecuted under this chapter***, and shall have maintained an address in the county in which the gaming activity is conducted, for a period of five (5) years prior to engaging in charitable gaming in that county***.

(3) The gaming activity shall be conducted, promoted, and administered exclusively by volunteer personnel receiving no remuneration for their services. The volunteer personnel may accept tips from patrons of the gaming activity.

(4) Charitable gaming may not be conducted on or within any leased premises if*:*

(a) The rental charge is to be paid, in whole or in part, on the basis of a percentage of the receipts or net proceeds derived from the operation of the game or by reference to the number of people in attendance at the game***; and***

(b) The premises are not owned by another charitable organization.

(5) The charitable gaming activities of any one (1) organization shall be limited to only one (1) location, and shall be limited to ***one (1) day*** [~~two (2) days~~] in any one (1) week for a period not to exceed ten (10) hours in any one (1) day. No organization shall ***award prizes which shall exceed one thousand dollars ($1,000) per game*** [~~conduct gaming activities for more than two (2) consecutive days~~].

(6) Approved suborganizations of a primary organization which conducts charitable gaming, such as a ladies auxiliary, or other specialized group operating under the direct control of the primary organization, which suborganizations conduct a charitable gaming activity may, with the written permission of the governing board of the primary organization, conduct charitable gaming in excess of the organizational limits permitted in subsections (4) and (5) of this section. The suborganization shall, however, comply with the requirements of subsections (4) and (5) of this section.

(7) Accurate records and books shall be kept by the charitable organization conducting the gaming activity showing the total number of persons who played; the total amount of moneys received from persons who played, attended, or participated in the gaming activity; the expenses incurred; the name and address of each person to whom expenses were paid; and the amount of the net proceeds, received by the organization from charitable gaming. ***The number of approved suborganizations for each primary organization shall not exceed two (2), and*** charitable gaming activities by suborganizations of a primary organization shall not exceed two (2) additional days per week***, one (1) day for each suborganization.***

(8) All proceeds from the gaming activity, except for prizes paid out, shall be deposited into a checking account devoted exclusively to the gaming activity. Money for expenses shall be withdrawn only by checks having preprinted consecutive numbers and made payable to specific persons or organizations. The net proceeds of the gaming activity may be removed from the checking account and placed into a separate depository account held by the organization conducting the gaming activity.

(9) All suborganizations which are authorized by the primary organization to conduct charitable gaming activity shall comply with all provisions of this section, except that they shall make their financial reports to the primary organization and the primary organization shall include the reports and bookkeeping entries of the suborganization with those of the parent organization. Entries shall be entered in such a manner as to separately identify primary organization earnings and activities and suborganization.

(10) Any proceeds resulting from the operation of charitable gaming activities shall be utilized solely for purposes consistent with the charitable or religious or fraternal society functions and objectives for which the operating organization or institution or fraternal society received and maintained federal tax-exempt status.

Section 2. KRS 528.140 is amended to read as follows:

(1) An organization conducting a charitable gaming activity shall register with the county clerk of the county in which the gaming activity will take place.

(2) The person responsible for registration shall be the same person maintaining the organization's Federal Internal Revenue Code charitable, religious, or fraternal tax exemption.

(3) The organization registered shall provide:

(a) The name and address of the religious, charitable, or fraternal organization or institution.

(b) Proof of the organization's charitable, religious, or fraternal tax exemption according to the Federal Internal Revenue Code for the last five (5) years.

(c) A quarterly accounting of all money received from the gaming activity, all prizes paid out, all expenses paid, and all moneys retained for charitable use.

(4) The clerk shall receive a fee of ***twenty***-five dollars ***($25)*** [~~($5)~~] for registrations under this section. ***Registrations shall be renewed annually at the same fee.***

The Committee Substitute to **HB 831** is as follows:

HB 831, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 528.130 is amended to read as follows:

(1) The status of "charitable gaming" shall be a defense to any prosecution under this chapter only if the charitable or religious organization or institution or fraternal society, and the charitable gaming activity conducted thereby:

(a) Shall have registered with the county clerk's office in compliance with KRS 528.140; and

(b) Shall conform in full to the requirements of this section.

(2) The organization conducting the gaming activity, and receiving the proceeds therefrom, shall maintain a charitable or religious or fraternal society tax exemption according to the Federal Internal Revenue Code*,* ***as defined in Sections 501(c)(3), (4), (8), (10), and (19) of that code,*** [~~and~~] shall have maintained federal tax-exempt status for a period of five (5) years prior to any gaming activity prosecuted under this chapter*,* ***and shall have resided in the county in which the gaming activity is conducted, for a period of one (1) year prior to engaging in charitable gaming in that county.***

(3) The gaming activity shall be conducted, promoted, and administered exclusively by volunteer personnel receiving no remuneration for their services. The volunteer personnel may accept tips from patrons of the gaming activity.

(4) ***(a)*** Charitable gaming may not be conducted on or within any leased premises if the rental charge is to be paid, in whole or in part, on the basis of a percentage of the receipts or net proceeds derived from the operation of the game or by reference to the number of people in attendance at the game.

(b) An owner, primary leaseholder, or manager of a property leased to a charitable organization and on which charitable gaming is conducted shall not under any circumstances manage or operate the charitable gaming activities conducted on the property, unless the owner, primary leaseholder, or manager of the property leased is also the charitable organization conducting the charitable gaming activity.

(5) The charitable gaming activities of any one (1) organization shall be limited to only one (1) location, and shall be limited to ***one (1) day*** [~~two (2) days~~] in any one (1) week for a period not to exceed ten (10) hours in any one (1) day. No organization shall ***award prizes for bingo which shall exceed three thousand dollars ($3,000) cash value per session*** [~~conduct gaming activities for more than two (2) consecutive days~~].

(6) ***An*** approved ***suborganization*** [~~suborganizations~~] of a primary organization which conducts charitable gaming, such as a ladies auxiliary, or other specialized group operating under the direct control of the primary organization, which suborganizations conduct a charitable gaming activity may, with the written permission of the governing board of the primary organization, conduct charitable gaming in excess of the organizational limits permitted in subsections (4) and (5) of this section. The suborganization shall, however, comply with the requirements of subsections (4) and (5) of this section.

(7) Accurate records and books shall be kept by the charitable organization conducting the gaming activity showing the total number of persons who played; the total amount of moneys received from persons who played, attended, or participated in the gaming activity; the expenses incurred; the name and address of each person to whom expenses were paid; and the amount of the net proceeds, received by the organization from charitable gaming. ***The primary organization shall have only one (1) approved suborganization, and*** charitable gaming activities by ***the suborganization*** [~~suborganizations~~] of a primary organization shall not exceed ***one (1)*** [~~two (2)~~] additional ***day*** [~~days~~] per week.

(8) All proceeds from the gaming activity, except for prizes paid out, shall be deposited into a checking account devoted exclusively to the gaming activity. Money for expenses shall be withdrawn only by checks having preprinted consecutive numbers and made payable to specific persons or organizations. The net proceeds of the gaming activity may be removed from the checking account and placed into a separate depository account held by the organization conducting the gaming activity.

(9) All suborganizations which are authorized by the primary organization to conduct charitable gaming activity shall comply with all provisions of this section, except that they shall make their financial reports to the primary organization and the primary organization shall include the reports and bookkeeping entries of the suborganization with those of the parent organization. Entries shall be entered in such a manner as to separately identify primary organization earnings and activities and suborganization.

(10) Any proceeds resulting from the operation of charitable gaming activities shall be utilized solely for purposes consistent with the charitable or religious or fraternal society functions and objectives for which the operating organization or institution or fraternal society received and maintained federal tax-exempt status.

Section 2. KRS 528.140 is amended to read as follows:

(1) An organization conducting a charitable gaming activity shall register with the county clerk of the county in which the gaming activity will take place. ***The application for registration and all documentation submitted as part of the registration process shall be sworn and subscribed to in a notarized statement as to the truth and validity of the information by the person responsible for the registration.***

(2) The person responsible for registration shall be the same person maintaining the organization's Federal Internal Revenue Code charitable, religious, or fraternal tax exemption.

(3) The organization registered shall provide:

(a) The name and address of the religious, charitable, or fraternal organization or institution.

(b) ***A letter from the Federal Internal Revenue Service showing*** proof of the organization's charitable, religious, or fraternal tax exemption according to the Federal Internal Revenue Code for the last five (5) years.

(c) A quarterly accounting of all money received from the gaming activity, all prizes paid out, all expenses paid, and all moneys retained for charitable use.

(4) The clerk shall receive a fee of ***twenty***-five dollars ***($25)*** [~~($5)~~] for registrations under this section. ***Registrations shall be renewed annually at the same fee.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 528 IS CREATED TO READ AS FOLLOWS:

(1) Any organization which fails to comply with the provisions of KRS 528.010 and Sections 1 and 2 of this Act, shall be fined one thousand dollars ($1,000) per day for each day they are in noncompliance, in addition to any other penalties which may apply.

(2) Any organization registered under Section 2 of this Act, which commits fraud in securing registration, fails to submit quarterly reports, or reports false information, or violates any other provision of Sections 1 and 2 of this Act shall have its registration suspended or revoked.

HB 853, AN ACT relating to newspapers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 518 IS CREATED TO READ AS FOLLOWS:

(1) All editorials printed in any newspaper published, circulated, or distributed within the Commonwealth shall include the name of the natural person who wrote the editorial and the name of any other natural person who either directed or approved the editorial.

(2) Any newspaper which fails to print the byline as required in subsection (1) of this section shall in lieu thereof print on the editorial page of each issue the following statement: "This newspaper has refused to identify the author of its editorials."

HB 902, AN ACT relating to charitable solicitations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.650 is amended to read as follows:

As used in KRS ***367.650*** [~~367.655~~] to 367.670:

(1) "Charitable or civic purpose" means any purpose or activity which is benevolent, educational, philanthropic, humane, ***scientific,*** patriotic, religious, ***social welfare or advocacy, public health, environmental conservation, civic,*** eleemosynary or fraternal, or is designed to serve the welfare of society generally, or any class or group to which society is morally obligated, or a specific community or to preserve or improve the culture thereof or environment enjoyed thereby.

(2) ***"Charitable organization" means a person who is, or holds himself out to be, established for a charitable or civic purpose, or a person who in any manner employs a charitable or civic appeal as the basis of a solicitation or employs an appeal that suggests there is a charitable or civic purpose to a solicitation.***

(3) "Charitable solicitation" means any solicitation of a contribution for a charitable or civic purpose.

(4) "Contribution" means the gift or promise of a gift of any money, property or compensated services, including the consideration for any goods***,*** [~~or~~] services***, or admission to a fundraising event*** [~~transferred to a purchaser~~], when the sale ***of goods, services or admissions*** is represented as being made to raise funds for a charitable or civic purpose, except (a) payments by members of an organization to it for reasonable membership fees, dues, fines, or assessments or for services rendered to the individual member if membership in ***an*** [~~such~~] organization confers a bona fide right, privilege, professional standing, honor, or other direct benefit commensurate with the payment, other than the right to vote, elect officers, or hold offices, and (b) money, property, or compensated services received from any governmental authority.

(5)[~~(3)~~] "Solicit" and "solicitation" ***mean*** [~~means~~], respectively, (a) to engage in, and (b) the act of, requesting, directly or indirectly, that an addressed person or limited audience or the public generally make a contribution or contributions. Solicitation shall be deemed to have taken place when the request is made, whether or not the requested contribution is made.

[~~(4) "Organization" means any combination of persons acting in concert or any person other than a natural person, and shall include a corporation sole.~~]

(6)[~~(5)~~] "Person" means any natural person, corporation, trust, partnership, ***organization, foundation, society,*** incorporated or unincorporated association, or other legal entity ***or combinations of persons acting in concert.***

(7)[~~(6)~~] "Professional ***fundraiser*** [~~fund raiser~~]" means a person who for ***financial*** [~~compensation~~] or other consideration***:***

(a) Solicits contributions in this state for or on behalf of a charitable organization; or

(b) Plans, conducts, manages or carries on or advises***, whether directly or indirectly,*** concerning a drive or campaign of soliciting contributions ***for or on behalf of a charitable organization;***

(c) A person qualifies as a professional fundraiser under paragraph (a) of this subsection regardless of whether the solicitation is performed personally; through the person's agents, servants, employees or volunteers; or through agents, servants, employees or volunteers employed by or for a charitable organization, who are engaged in the solicitation of contributions under the direction, supervision, or instruction of the person [~~to a person or organization for charitable or civic purposes, or employs or supervises solicitors in connection therewith~~].

(d) A bona fide ***salaried*** officer or ***regular, nontemporary*** employee of the ***charitable organization that is the*** donee of [~~such~~] contributions is not a professional ***fundraiser*** [~~fund raiser~~] unless his salary or other compensation is computed on the basis of funds raised or to be raised***, or unless he is employed or engaged as a professional fundraiser for another charitable organization.***

(8) "New filing" means:

(a) A registration statement, registration fee, or bond filed by a professional fundraiser who is not currently registered with the Attorney General, or whose registration has expired or been revoked; or

(b) A contract or solicitation notice filed by a professional fundraiser regarding a charitable organization for which a contract and solicitation notice have not previously been accepted by the Attorney General, or for which the previous contract has expired.

[~~(7) "Professional solicitor" means a solicitor who is employed for compensation or other consideration by either a professional fund raiser or the prospective donee of the contributions.~~

~~(8) "Religious organization" means any organization, the activity of which is protected by section 1(2) of the Constitution of Kentucky and the First Amendment to the Constitution of the United States.~~

~~(9) "Solicitor" means a natural person who, by personal contact, transmitted oral communication or writing which identifies such person, requests a specific person to make a contribution for charitable or civic purposes.~~]

SECTION 2. A NEW SECTION OF KRS 367.650 TO 367.670 IS CREATED TO READ AS FOLLOWS:

(1) The filing requirements of this section shall apply to any charitable organization which solicits contributions within this Commonwealth, or on behalf of which contributions are solicited, except for solicitations declared exempt by KRS 367.660.

(2) Prior to any solicitation, the charitable organization shall file with the Attorney General a true and complete copy of the most recent Form 990 return it has filed with the United States Internal Revenue Service, including all schedules and attachments.

(3) If the charitable organization has not filed a Form 990 return with the United States Internal Revenue Service for either of the two (2) years preceding the year in which solicitations are to be conducted, it shall, prior to any solicitation, file a notice of intent to solicit in a form prescribed by the Attorney General. A notice of intent to solicit shall be valid for no more than twelve (12) months and shall in any event expire on December 31 of the calendar year in which it is filed. If the solicitation will continue beyond December 31, the charitable organization shall file a new notice as required by this subsection.

(4) A charitable organization filing a Form 990 return with the United States Internal Revenue Service for any fiscal year in which it solicited contributions within this state, or in which contributions were solicited on its behalf, shall file a true and complete copy of the return, including all schedules and attachments, with the Attorney General at the same time that it is filed with the Internal Revenue Service.

SECTION 3. A NEW SECTION OF KRS 367.650 TO 367.670 IS CREATED TO READ AS FOLLOWS:

(1) No person shall act as a professional fundraiser before obtaining approval of a registration statement by the Attorney General pursuant to subsection (7), or after the expiration, suspension, or revocation of registration. A registration statement shall be signed and sworn to by the principal officer of the professional fundraiser.

(2) The registration statement of a professional fundraiser shall be accompanied by a registration fee in the amount of three hundred dollars ($300). A professional fundraiser that is a partnership or corporation may register for and pay a single fee on behalf of all of its partners, members, officers, directors, agents, and employees. The registration fees required by this section shall be credited to a trust and agency account for the purposes of administering and enforcing the provisions of KRS 367.650 to 367.670.

(3) Each registration shall be valid for no more than twelve (12) months and shall expire on December 31 of the calendar year in which it is filed. In addition to any other penalty that may be imposed under Sections 1 to 6 of this Act, a professional fundraiser shall pay an additional three hundred dollars ($300) late registration fee, if the registration statement or bond required by this section is not timely filed.

(4) A professional fundraiser shall, at the time of filing the registration statement, file with and have approved by the Attorney General a full cash or surety bond in the amount of twenty-five thousand dollars ($25,000). The bond shall be in favor of the Attorney General and shall be held for compensation to any person who suffers loss of money or other property as a result of any malfeasance, nonfeasance, or misfeasance in the conduct of any solicitation, including, but not limited to, any violation of Sections 1 to 6 of this Act. The bond shall be in a form prescribed by the Attorney General and, if a surety bond, shall be issued by an insurer authorized to transact surety insurance in this state pursuant to KRS Chapter 304. The Attorney General may require that any cash offered as security for a full cash bond be held in escrow by a financial institution located within this Commonwealth, subject to an escrow agreement approved by the Attorney General.

(5) A contract between a charitable organization and a professional fundraiser shall be in writing. The contract shall be signed by two (2) authorized officials of the charitable organization, one (1) of whom must be a member of the organization's governing body, and the authorized contracting officer for the professional fundraiser. The contract shall contain the following provisions:

(a) A statement of the charitable or civic purpose for which the solicitation campaign is being conducted;

(b) A statement of the respective obligations of the professional fundraiser and the charitable organization;

(c) The effective and termination dates;

(d) A clear statement of the fees that will be paid to the professional fundraiser;

(e) The percentage of the gross revenue from the solicitation campaign that the charitable organization will receive. If the compensation of the professional fundraiser is not contingent upon the number of contributions or the amount of revenue received, the percentage of the gross revenue that the charitable organization will receive shall be expressed as a reasonable estimate, and the contract shall clearly disclose the assumptions upon which the estimate is based. The stated assumptions shall be based upon all of the relevant facts known to the professional fundraiser regarding the solicitation to be conducted by the professional fundraiser. The stated percentage of gross revenue to be received by the charitable organization shall exclude any amount that the charitable organization will pay as expenses of the solicitation, and shall specifically exclude the expenses of delivering the solicitations and accompanying or related literature, and the costs of goods or services sold or events staged; and

(f) Any other information that may be required in administrative regulations promulgated by the Attorney General in accordance with the provisions of KRS Chapter 13A.

(6) At least fourteen (14) calendar days prior to the performance of any service pursuant to a contract with a charitable organization, a professional fundraiser shall file with the Attorney General a copy of the contract required by this section. No solicitation pursuant to the contract shall begin before the Attorney General has approved the contract pursuant to subsection (7). In conjunction with the contract, a professional fundraiser shall also file a written solicitation notice with the Attorney General. The solicitation notice shall be signed and sworn to by the authorized contracting officer for the professional fundraiser, and shall be in a form and contain all information prescribed by the Attorney General. A contract filed by a professional fundraiser shall not be deemed to have been approved by the Attorney General under the provisions of subsection (7) unless it is accompanied by a solicitation notice.

(7) (a) If the Attorney General shall determine that a new filing made by a professional fundraiser does not meet the requirements of this section, the Attorney General shall notify the professional fundraiser within fourteen (14) calendar days of his receipt of the filing; otherwise the new filing is deemed to be approved. Within seven (7) calendar days after receipt of a notification that the requirements of this section are not satisfied, the professional fundraiser may request a hearing. The hearing must be held within seven (7) calendar days of receipt of the request and a determination must be rendered within three (3) business days after the hearing.

(b) Nothing in this subsection shall prohibit a professional fundraiser from submitting an amended filing upon receiving notice that his prior filing has not been accepted.

(8) (a) In addition to the procedures described in subsection (7), the Attorney General may refuse to renew the registration or revoke or suspend the registration of a professional fundraiser if he finds that a professional fundraiser, or an agent, servant, or employee thereof:

1. Has violated or is operating in violation of any of the provisions of Sections 1 to 6 of this Act or any administrative regulations that may be promulgated by the Attorney General in accordance with the provisions of KRS Chapter 13A;

2. Has refused or failed, or any of its principal officers has refused or failed, after notice, to produce any records, or to disclose any information required to be disclosed under Sections 1 to 6 of this Act, or any administrative regulations that may be promulgated by the Attorney General in accordance with the provisions of KRS Chapter 13A; or

3. Had made a material false statement in an application, statement or report required to be filed under Sections 1 to 6 of this Act.

(b) Prior to the Attorney General's revocation, suspension, or refusal to renew, he shall deliver to the professional fundraiser by mail a written notice containing the following information:

1. The Attorney General's intention to refuse renewal, revoke or suspend the registration statement;

2. The grounds for the Attorney General's intended action; and

3. A date on which an administrative hearing will be held at the office of the Attorney General.

(c) The administrative hearing shall be scheduled for a date not less than fourteen (14) calendar days following delivery of the notice to the address of the professional fundraiser given in the registration statement. A failure or refusal to accept the notice shall not be grounds for continuing or otherwise challenging the hearing.

(9) (a) Any person who was a party to a hearing held pursuant to subsection (7) or (8), and who is aggrieved by the order, may seek judicial review in the Franklin Circuit Court within thirty (30) days after the order has been mailed or delivered to the party.

(b) Upon receiving the petition on appeal, the Attorney General shall prepare an official record certified by him which shall contain a copy of all proceedings and orders of the Attorney General appealed from and the transcript of testimony and evidence or summary record thereof. Within thirty (30) days after the petition is served upon him, the Attorney General shall file the official record with the court.

(c) The court shall hear the case upon the record as attested by the Attorney General and shall in all respects dispose of the appeal in a summary manner. No new or additional evidence shall be introduced

in the Circuit Court except as to fraud or misconduct of some party engaged in the administration of KRS 367.650 to 367.670 and affecting the order appealed from. The court's review shall be limited to determining whether or not:

1. The Attorney General acted without or in excess of his powers;

2. Legal or procedural due process was afforded the appellant; and

3. If questions of fact are in issue, whether or not any substantial evidence supports the order appealed from.

(10) In addition to the procedures established in subsections (7) to (9), the Attorney General may bring a civil action directly in Franklin Circuit Court, or in the Circuit Court of any county in which a fundraising campaign involving a professional fundraiser is being conducted, seeking an order revoking, suspending, or denying renewal of a registration statement, for any of the ground set forth in this section.

(11) Within ninety (90) days after a solicitation campaign has been completed, and on the anniversary of the commencement of a solicitation campaign lasting more than one (1) year, a professional fundraiser shall file with the Attorney General a financial report for the campaign, including gross revenue and an itemization of all expenses incurred. This report shall be signed and sworn to by the authorized contracting agent for the professional fundraiser and two (2) authorized officials of the charitable organization, and shall be in a form and contain all information prescribed by the Attorney General.

(12) Any material change in any information filed with the Attorney General pursuant to this section shall be reported in writing by the professional fundraiser to the Attorney General not more than seven (7) calendar days after the change occurs.

(13) No person may act as a professional fundraiser if the person, any officer or director therof, any person with a controlling interest therein, or any person the professional fundraiser employs, engages, or procures to solicit for compensation, has been convicted by a court of any state or the United States of any felony, or of any misdemeanor involving moral turpitude or arising from the conduct of a solicitation for a charitable organization or purpose.

(14) No professional fundraiser shall contract with a charitable organization unless the professional fundraiser is registered with the Attorney General. A contract with an unregistered professional fundraiser shall be voidable at the option of the charitable organization.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367.650 TO 367.670 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General may enter into reciprocal agreements with appropriate authority of any other state for the purpose of exchanging information with respect to charitable organizations and professional fundraisers. Pursuant to these agreements, the Attorney General may accept information filed by a professional fundraiser with the appropriate authority of another state in lieu of the information required to be filed in accordance with Section 3 of this Act, if the information is substantially similar to the information required under Section 3 of this Act.

(2) Accept as otherwise provided in this subsection, Form 990 returns, notices of intent to solicit, registration statements, bonds, reports, notices, contracts, and all other documents and information required to be filed with the Attorney General under Sections 1 to 6 of this Act, shall be public records in the office of the Attorney General and shall be open to the general public at a time and under conditions as the Attorney General may prescribe. The Attorney General in his discretion may compile, summarize, publish, or otherwise release to the public any information contained in such documents. However, names, addresses and identities of contributors and amounts contributed by them shall not be considered a matter of public record and, therefore, shall not generally be made available for public inspection, shall not be used for a purpose inconsistent with Sections 1 to 6 of this Act, and shall be removed from the records in the custody of the Attorney General at the time the information is no longer necessary for the enforcement of Sections 1 to 6 of this Act.

(3) Every professional fundraiser subject to the provisions of Sections 1 to 6 of this Act shall, in compliance with any administrative regulations promulgated by the Attorney General in accordance with KRS Chapter 13A, keep fiscal records of its activities in this Commonwealth covered under Sections 1 to 6 of this Act, in a form enabling the fundraiser to accurately provide the information required under subsection (4) of this section. These records shall be maintained during each registration period and for not less than three (3) years thereafter.

(4) A professional fundraiser shall maintain during each solicitation campaign and for not less than three (3) years after its completion, the following specific records:

(a) The name and address of each contributor and the date and amount of the contribution;

(b) The name and address of each employee, agent, or other person involved in the solicitation, the amount of compensation paid to each, and the dates on which payments were made;

(c) A record of all contributions that at any time are in the custody of the professional fundraiser;

(d) A record of all expenses incurred in the course of the solicitation campaign for the payment of which the professional fundraiser is liable;

(e) A record of all expenses incurred in the course of the solicitation campaign for the payment of which the charitable organization is liable;

(f) The location of each bank or financial institution in which the professional fundraiser has deposited revenue from the solicitation campaign, and the account number of each account in which deposits were made;

(g) A copy of each pitch sheet or solicitation script used during the solicitation campaign;

(h) If a refund of a contribution has been requested, the name and address of each person requesting a refund, and if a refund was made, its amount and the date it was made.

(i) Additional records prescribed by administrative regulations promulgated by the Attorney General in accordance with the provisions of KRS Chapter 13A.

(5) If a professional fundraiser sells tickets to any event and represents that the tickets shall or may be donated for use by another person, the professional fundraiser shall also maintain for the same period as prescribed in subsection (4) of this section the following specific records:

(a) The name and address of each contributor who purchased or donated tickets and the number of tickets donated by the contributor; and

(b) The name and address of each person or organization that received the donated tickets for use by others, and the number of tickets received by the person or organization.

(6) Each contribution collected by or in the custody of a professional fundraiser shall be solely in the name of the charitable organization on whose behalf the contribution was solicited. Not later than two (2) business days after receipt of each contribution, the professional fundraiser shall deposit the entire amount of the contribution in an account at a bank or other financial institution, which shall be in the name of that charitable organization. The charitable organization shall have sole control of all withdrawals from the account and professional fundraiser shall not be given the authority to withdraw any deposited funds from the account.

(7) The records required to be maintained by this section shall be made available for inspection by the Attorney General no later than ten (10) business days after his request.

SECTION 5. A NEW SECTION OF KRS 367.650 TO 367.670 IS CREATED TO READ AS FOLLOWS:

(1) Prior to orally requesting a contribution, or contemporaneously with a written request for a contribution, a professional fundraiser shall be responsible for clearly and conspicuously disclosing:

(a) The name of the professional fundraiser as on file with the Attorney General, and that the solicitation is being conducted by a professional fundraiser who is being paid for his services.

(b) If the individual acting on behalf of the professional fundraiser identifies himself by name, the individual's legal name.

(c) The name of the charitable organization and a description of how the contributions raised by the solicitation will be utilized for a charitable or civic purpose or, if there is no charitable organization, a description as to how the contributions raised by the solicitation will be utilized for a charitable or civic purpose.

(2) Any responses given by or on behalf of a professional fundraiser to an oral or written request for information shall be truthful.

(3) In the case of a solicitation campaign conducted orally, whether by telephone or otherwise, any written confirmation or receipt or reminder sent to any person who has contributed or has pledged to contribute, shall include a clear and conspicuous disclosure of the information required by subsection (1) of this section.

(4) (a) In addition to the information required by subsection (1) of this section, any written confirmation, receipt or reminder of a contribution made pursuant to an oral solicitation and any written solicitation shall conspicuously state:

"A copy of the official registration and financial information may be obtained from the Kentucky Attorney General's Office by calling toll free, within Kentucky, 1 (800) 432-9257. Registration does not imply endorsement."

(b) The Attorney General may from time to time change the telephone number to be contained in the notice by notifying all registered professional fundraisers in writing, at least ninety (90) calendar days prior to the date on which the new number shall start appearing in the notice.

(5) If the person being solicited requests information regarding the amount or percentage of funds going to the charitable organization, or to a charitable or civic purpose, a professional fundraiser shall inform that person of the percentage of the gross revenue or the reasonable estimate of the gross revenue, that the charitable organization will receive from the solicitation campaign.

SECTION 6. A NEW SECTION OF KRS 367.650 TO 367.670 IS CREATED TO READ AS FOLLOWS:

Unfair, false, misleading, or deceptive acts or practices in the conduct of any charitable solicitation are hereby declared unlawful. These include, but are not limited to, the following acts and practices:

(1) Operating in violation of, or failing to comply with, any of the requirements of Sections 1 to 6 of this Act or of any administrative regulations that may be promulgated by the Attorney General in accordance with the provisions of KRS Chapter 13A.

(2) Representing or leading anyone in any manner to believe that a solicitation is for or on behalf of a charitable organization; or utilizing any emblem, device or printed matter belonging to or associated with a charitable organization; or otherwise representing that any part of the contributions received will be donated to a charitable organization without first being authorized in writing to do so by the charitable organization. The written authorization shall be signed by two (2) authorized officials of the charitable organization, one of whom must be a member of the organization's governing body.

(3) Utilizing a name, symbol or statement so closely related or similar to that used by another charitable organization, public official or public agency that the use thereof would tend to confuse or mislead a solicited person.

(4) Representing or leading anyone in any manner to believe that the person on whose behalf a solicitation is being conducted is a bona fide charitable organization, or that the proceeds of the solicitation will be used for charitable or civic purposes when the person making the representation has reason to believe that this is not the fact.

(5) Representing or leading anyone in any manner to believe that any other person sponsors, endorses, or approves a solicitation or the charitable organization or purpose for which the solicitation is being made, when the other person has not given consent in writing to the use of his name for these purposes.

(6) Representing or leading anyone in any manner to believe that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or qualities that they do not have, or that a person has a sponsorship, approval, status, affiliation or connection that he does not have.

(7) Utilizing or exploiting the fact of registration under Sections 1 to 6 of this Act so as to lead any person to believe that registration in any manner constitutes an endorsement or approval by the Commonwealth. Use of the notice prescribed by subsection (4) of Section 5 of this Act shall not be deemed a prohibited exploitation.

(8) Representing or leading anyone in any manner to believe that a charitable organization will receive a fixed or estimated percentage of the gross revenue from a solicitation campaign that is greater than that set forth in the contract filed with the Attorney General pursuant to subsection (3) of Section 3 of this Act.

(9) (a) Soliciting for advertising to appear in a for-profit publication which relates to, purports to relate to, or which could reasonably be construed to relate to, any charitable or civic purpose, without making the following disclosures at the time of solicitation:

1. The publication is a for-profit, commercial enterprise.

2. The name of the professional fundraiser as on file with the Attorney General, and that the solicitation is being conducted by a professional fundraiser who is being paid for his services, and

3. The publication is not directly affiliated or sponsored by any nonprofit organization.

(b) Where a sale of advertising has been made, the fundraiser, prior to accepting any money for the sale, shall present the purchaser with the same disclosures, in written form and in conspicuous type.

(10) Representing or leading anyone in any manner to believe that tickets to an event will be donated for use by another, unless all of the following requirements have been met:

(a) The person making the representation shall have commitments, in writing, from one (1) or more charitable organizations starting that they will accept donated tickets, and specifying the number of tickets they are willing to accept.

(b) The professional fundraiser shall not solicit or accept more contributions of donated tickets than the lesser of:

1. The number of ticket commitments it has received from charitable organizations; or

2. The total attendance capacity of the site of the event.

(c) The professional fundraiser shall not use a charitable organization's name in the solicitation campaign, based solely upon a ticket commitment alone.

(d) Not later than seven (7) calendar days prior to the date of the event, the professional fundraiser shall give all donated tickets to each person or organization that made the written commitment to accept them.

(11) Representing or leading any potential contributor in any manner to believe that they or some other person have made a prior contribution to a charitable organization, when this is not the case, or overstating the amount of a prior contribution.

SECTION 7. A NEW SECTION OF KRS 367.650 TO 367.670 IS CREATED TO READ AS FOLLOWS:

Nothing contained in Sections 1 to 6 of this Act shall serve to deny the right to any county, municipality or consolidated government to pass ordinances, rules, and regulations as may be deemed appropriate to regulate further the soliciting of contributions within a county, municipality, or consolidated government. An ordinance may not alter any of the obligations set forth in Sections 1 to 6 of this Act or any administrative regulations promulgated by the Attorney General in accordance with the provisions of KRS Chapter 13A, but may add thereto other requirements and rules as appear to be proper to the county, municipality or consolidated government involved.

Section 8. KRS 367.660 is amended to read as follows:

The following solicitations are exempt from the ***filing requirements of Section 2 of this Act*** [~~provisions of KRS 367.650 to 367.670~~]:

(1) Solicitations by an organization of contributions from its members and their families only, provided membership is not included in a solicitation to avoid the provisions of KRS 367.650 to 367.670, is not granted upon the basis of contributions alone, and is within the exception of KRS 367.650(2).

(2) Solicitations by a religious organization for funds for religious purposes such as maintenance of a house of worship, conduct of services and propagation of its faith and tenets as distinguished from other charitable and civic purposes employed by non-religious organizations.

(3) Solicitations by a publicly owned or non-profit privately endowed educational institution which is approved or licensed by the state board for elementary and secondary education, the council on higher education or an equivalent public authority of the jurisdiction where the institution is located from the alumni, faculty

members and student body of the institution and their families, and from corporations, for the continuance of an established educational program.

(4) Local solicitations by a student group or parent-teacher association for its campus or group connected activities with the approval of the administration of the educational institution.

Section 9. KRS 367.665 is amended to read as follows:

(1) All of the remedies, powers, and duties provided for the attorney general by KRS 367.190 to 367.300 appertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts declared unlawful by ***Sections 3 to 6 of this Act*** [~~KRS 367.655~~].

(2) Nothing in Sections 1 to 6 of this Act shall be construed to limit or restrict the powers, duties, remedies or penalties available to the Attorney General, the Commonwealth, or any private person under any other provision of statutory or common law.

(3) The Attorney General shall have the authority to promulgate such administrative regulations in accordance with the provisions of KRS Chapter 13A as he deems necessary for the proper administration of this Act.

Section 10. KRS 367.990 is amended to read as follows:

(1) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.190 shall forfeit and pay to the Commonwealth a civil penalty of not more than twenty-five thousand dollars ($25,000) per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties.

(2) In any action brought under KRS 367.190, if the court finds that a person is willfully using or has willfully used a method, act, or practice declared unlawful by KRS 367.170, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth, a civil penalty of not more than two thousand dollars ($2,000) per violation.

(3) Any person with actual notice that an investigation has begun or is about to begin pursuant to KRS 367.240 and 367.250 who intentionally conceals, alters, destroys, or falsifies documentary material is subject to a fine of not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000).

(4) Any person who, in response to a subpoena or demand as provided in KRS 367.240 or 367.250, intentionally falsifies or withholds documents, records, or pertinent materials that are not privileged, shall be subject to a fine as provided in subsection (3) of this section.

(5) The Circuit Court of any county in which any plan described in KRS 367.350 is proposed, operated, or promoted may grant an injunction without bond, upon complaint filed by the Attorney General to enjoin the further operation thereof, and the Attorney General may ask for and the court may assess civil penalties against the defendant in an amount not to exceed the sum of five thousand dollars ($5,000) which shall be for the benefit of the Commonwealth of Kentucky.

(6) Any person, business, or corporation who knowingly violates the provisions of KRS 367.540 shall be fined not less than fifty dollars ($50.00) and not more than five hundred dollars ($500) for each offense. It shall be considered a separate offense each time a magazine is mailed into the state; but it shall be considered only one (1) offense for any quantity of the same issue of a magazine mailed into Kentucky.

(7) Any solicitor who violates the provisions of KRS 367.513 or 367.515 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in the county jail for not less than one (1) month nor more than six (6) months, or both, for each offense.

(8) In addition to the penalties contained in this section, the Attorney General, upon petition to the court, may recover, on behalf of the Commonwealth a civil penalty of not more than the greater of five thousand dollars ($5,000) or two hundred dollars ($200) per day for each and every violation of KRS 367.175.

(9) Any person who shall willfully and intentionally violate any provision of KRS 367.976 to 367.985 shall be fined not more than five hundred dollars ($500) for each offense.

(10) (a) Any person who violates the terms of a temporary or permanent injunction issued under KRS 367.665 shall forfeit and pay to the Commonwealth a penalty of not more than five thousand dollars ($5,000)

per violation. For the purposes of this section, the Circuit Court issuing an injunction shall retain jurisdiction, and the cause shall be continued, and in such cases the Attorney General acting in the name of the Commonwealth may petition for recovery of civil penalties; and

(b) The Attorney General may, upon petition to a court having jurisdiction under KRS 367.190, recover on behalf of the Commonwealth from any person found to have willfully committed an act declared unlawful by ***Sections 3 to 6 of this Act*** [~~KRS 367.655~~] a penalty of not more than two thousand dollars ($2,000) per violation.

(c) Any person who knowingly violates or causes to be violated any provision of Sections 3 to 6 of this Act, or who shall knowingly give false or incorrect information to the Attorney General in filing statements or reports required by Sections 3 to 6 of this Act, whether the report or statement is verified or not, shall be guilty of a Class D felony.

(11) Any dealer who fails to provide a statement under KRS 367.760 or a notice under KRS 367.765 shall be liable for a penalty of one hundred dollars ($100) per violation to be collected in the name of the Commonwealth upon action of the Attorney General.

(12) Any dealer or manufacturer who falsifies a statement under KRS 367.760 shall be liable for a penalty not exceeding one thousand dollars ($1,000) to be collected in the name of the Commonwealth upon action by the Attorney General.

(13) Any person who violates KRS 367.805, 367.809(2), 367.811, or 367.813(1) shall be guilty of a Class C felony.

(14) Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violations of KRS 367.801 to 367.819.

(15) A violation of KRS 367.474 to 367.478 and 367.482 is a Class C felony. Either the Attorney General or the appropriate Commonwealth's attorney shall have authority to prosecute violators of KRS 367.474 to 367.478 and 367.482.

(16) Any violation of KRS 367.310 shall be subject to a fine of not more than two hundred dollars ($200) for each offense.

(17) Any person, partnership, or corporation upon conviction of violation of the provisions of KRS 367.850 shall be fined not less than twenty-five dollars ($25) or more than five hundred dollars ($500) or confined in the county jail for not more than six (6) months, or both such fine and imprisonment.

(18) Any dealer in motor vehicles or any other person who fraudulently changes, sets back, disconnects, fails to connect, or causes to be changed, set back, or disconnected, the speedometer or odometer of any motor vehicle, to effect the sale of the motor vehicle shall be fined five thousand dollars ($5,000) per violation.

(19) Any person who negotiates a contract of membership on behalf of a club without having previously fulfilled the bonding requirement of KRS 367.403 shall be guilty of a Class D felony.

(20) Any person or corporation who operates or attempts to operate a health spa in violation of KRS 367.905(1) shall be guilty of a Class A misdemeanor.

(21) (a) Any person who violates KRS 367.832 shall be guilty of a Class C felony; and

(b) The appropriate Commonwealth's attorney shall have authority to prosecute felony violations of KRS 367.832.

(22) (a) Any person who violates the provisions of KRS 367.855 or 367.857 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500). Either the Attorney General or the appropriate county health department shall have authority to prosecute violators of KRS 367.855 or 367.857.

(b) The provisions of this subsection shall not apply to any retail establishment if the wholesaler, distributor, or processor fails to comply with the provisions of KRS 367.857.

Section 11. The following KRS sections are repealed:

367.655 Unlawful acts.

367.657 Filing of federal form 990 fulfills reporting requirement.

SB 250, AN ACT relating to the practice of veterinary medicine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

It is hereby declared that the practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of public health, safety and welfare. To protect the public from being misled by incompetent, unscrupulous and unauthorized practitioners, and from unprofessional or illegal practices by persons licensed to practice veterinary medicine, Sections 1 to 23 of this Act are enacted in the interest of the health, safety and welfare of the animal population and the citizens of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) "Board" means the Kentucky Board of Veterinary Examiners;

(2) "Animal" means any animal, except human beings;

(3) "Compensation" includes any gift, bonus, fee, money, credit or other thing of value;

(4) "Veterinarian" means a practitioner of veterinary medicine who is duly licensed in the Commonwealth of Kentucky;

(5) "Practice of veterinary medicine" means:

(a) To diagnose, treat, correct, change, relieve, or prevent: animal disease, deformity, defect, injury or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility or infertility or to render advice or recommendation with regard to any of the above;

(b) To engage in veterinary surgery, obstetrics, embryo transfer, dentistry, acupuncture, manipulation and all other branches or specialties of veterinary medicine and the prescribing, administering, or dispensing of drugs and medications for veterinary purposes, in accordance with the applicable federal statutes and regulations governing controlled prescription and legend drugs; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsections 5(a) and (b) of this section.

(6) "Embryo transfer" means to remove any embryo from any animal for the purpose of transplanting the embryo into another female animal or for the purpose of cryopreserving the embryo, or to implant the embryo into any animal, including food and companion animals;

(7) "Chemical restraint" means the use of any prescription or legend drug that restrains or tranquilizes the animal;

(8) "Direct supervision" means the veterinarian is on the premises, and is quickly and easily available, and the animal has been examined by a veterinarian at the times acceptable veterinary medical practice requires, consistent with the particular delegated animal health care tasks;

(9) "Indirect supervision" means the veterinarian does not have to be on the premises as long as a valid veterinary/client/patient relationship has been established and the veterinary technologist, veterinary technician, or veterinary assistant has been instructed on the applicable animal health care tasks in accordance with Sections 7 and 8 of this Act.

(10) "Emergency" means the animal has been placed in a life threatening condition and immediate treatment is necessary to sustain life;

(11) "Impaired veterinarian program" means the Kentucky Veterinary Medical Association sponsored program for the identification, intervention and monitoring of veterinarians impaired as a result of alcoholism, chemical dependence, drug abuse or physical or mental illness;

(12) "Veterinary medical impairment committee" means a committee of the Kentucky Veterinary Medical Association, comprised of individuals who have expertise in the areas of alcoholism, chemical dependence, drug abuse or physical or mental illness, that has been designated by the Kentucky Veterinary Medical Association to perform activities related to the impaired veterinarian program.

(13) "Veterinary technologist" means a person who has successfully completed an accredited program of veterinary technology approved by the board and who is registered in accordance with Section 7 of this Act;

(14) "Veterinary technician" means a person who has an associate degree related to veterinary sciences, or its equivalent as approved by the board and who is registered in accordance with Section 7 of this Act;

(15) "Veterinary assistant" means a lay person employed by a licensed veterinarian in accordance with Section 8 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) In order for a veterinarian to practice veterinary medicine, a relationship among the veterinarian, the client and the patient shall be established and maintained. "Veterinarian-client-patient relationship" means that:

(a) The veterinarian has assumed the responsibility for making judgments regarding the health of the animal and the need for veterinary treatment, and the client, whether owner or other caretaker, has agreed to follow the instructions of the veterinarian;

(b) There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal, and by medically appropriate and timely visits to the premises where the animal is kept; and

(c) The practicing veterinarian is readily available or shall provide medical service for follow-up in case of adverse reactions or failure of the regimen of therapy. A new regimen of therapy shall be contingent only upon cooperation of the client and availability of the subject animal.

(2) The veterinarian shall maintain records which document patient visits, diagnosis, treatment and other relevant information.

SECTION 4. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue a license by endorsement to any applicant who, upon applying to the board and remitting a fee set by the board, demonstrates to the board that he has met the following requirements:

(a) The applicant is a graduate of a veterinary college approved by the board;

(b) The applicant is of good moral character;

(c) The applicant holds a valid license to practice veterinary medicine and has practiced veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States for at least one (1) year immediately preceding application, if the requirements for licensure in the issuing state are equal to or higher than the standards required for the issuance of a new license under the provisions of this chapter; and

(d) The applicant has passed an examination given by the board on the laws and administrative regulations of the Commonwealth of Kentucky governing the practice of veterinary medicine.

(2) The board shall not issue a license by endorsement to any applicant who is under investigation in another state, territory, or the District of Columbia for an act which could result in disciplinary action in that jurisdiction until the investigation and disciplinary proceedings have been completed.

SECTION 5. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue a special permit to practice veterinary medicine to:

(a) A nonlicensed veterinarian who is a qualified applicant to become a licensed veterinarian by examination, and who is employed by and under the direct supervision of a Kentucky licensed veterinarian. The special permit shall be issued after the application has been made to take the next examination given by the board and the required fees paid. A letter of recommendation from the supervising licensed veterinarian shall be submitted with the application. The special permit shall expire the day after the notice of results of the first examination given after the permit was issued.

(b) A veterinarian who is licensed in, and who has practiced for one (1) year immediately preceding application in another state, territory, or district of the United States whose licensing requirements are equal to or higher than those of Kentucky, and who has made application to take the next examination given by the board and paid the required fees. The special permit shall expire the day after the notice of results of the first examination given after the permit was issued.

(2) A special permit may be subject to the disciplinary procedures as set forth in Section 14 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

A veterinarian who wishes to retire his license shall complete an affidavit indicating permanent retirement of the license to practice veterinary medicine. Retirement shall not be permitted if the veterinarian is still engaged in veterinary medicine in any other state. If reactivation of licensure is desired, a veterinarian shall submit proof of the completion of the continuing education requirements of Section 13 of this Act within the last twelve (12) months and remit appropriate renewal fees.

SECTION 7. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for registration as a veterinary technologist shall be a graduate of an accredited program of veterinary technology approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technician shall possess an associate degree related to veterinary sciences, or its equivalent, approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technologist or veterinary technician shall pass a written and practical examination as determined by the board to assess the qualifications and fitness of an applicant to engage in the practice.

(2) Registration issued to a veterinary technologist or veterinary technician shall not be active until the veterinary technologist or veterinary technician is employed and is under the direct supervision of a veterinarian licensed in this Commonwealth. A veterinary technologist or veterinary technician's registration is considered to be inactive until registration is activated by returning a renewal application signed by the supervising veterinarian and the application is approved by the board. Each veterinary technologist or veterinary technician registered by the board shall pay an annual fee as prescribed by the board. Each veterinary technologist or veterinary technician registered by the board shall attend annual continuing education hours as required by the board to renew the registration. Failure to renew shall result in the termination of registration. If a hearing is requested upon the rejection of an application, or upon the termination of registration, a hearing shall be conducted in accordance with the provision of Section 21 of this Act.

(3) The services of a veterinary technologist or veterinary technician shall be limited to the performance of duties under the direct supervision of a licensed veterinarian except for the routine administration of drugs, vaccines, parasite control agents and growth stimulating implants for food animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists. A veterinary technologist or veterinary technician shall receive no fee or compensation for services other than salary or compensation paid by the establishment by which the veterinary technologist or veterinary technician is employed. A veterinary technologist or veterinary technician shall not participate in the operation of a branch office, clinic or allied establishment unless a licensed veterinarian is on the premises. A veterinary technologist or veterinary technician shall not diagnose, prescribe medication or treatment, or perform surgical procedures other than castrating and dehorning of food animals. A veterinary technologist or veterinary technician may assist a veterinarian in all duties of veterinary medicine and surgery.

(4) A veterinarian shall utilize the services of a veterinary technologist or veterinary technician in accordance with the terms and provisions of this chapter. Unauthorized utilization of veterinary technologist or veterinary technicians by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in Section 14 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) A veterinary assistant may work only under the direct supervision of a veterinarian except for the routine administration of drugs, vaccines, parasite control agents, and growth stimulating implants for food

animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists.

(2) Duties of a veterinary assistant shall exclude diagnosing, prescribing medication or treatment, and performance of surgical procedures other than castrating and dehorning of food animals.

(3) A veterinarian shall utilize the service of a veterinary assistant in accordance with the terms and provisions of this chapter. Unauthorized utilization of veterinary assistants shall be considered as aiding and abetting an unlicensed person to practice veterinary medicine as described in Section 14 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

A veterinarian may:

(1) Make farm or house calls in a motor vehicle or utilize a motor vehicle equipped with special medical or surgical equipment if the veterinarian has a permanent base of operations with a published address and telephone number recorded with the board where the veterinarian may be contacted.

(2) Apply the principles of environmental sanitation, food inspection, animal nutrition, artificial insemination, environmental pollution control, zoonotic disease control, and disaster medicine in the promotion and protection of public health; and

(3) Engage in the collection of hazardous biological specimens and the use of vaccine which may be injurious to humans, in accordance with applicable federal statutes and regulations.

SECTION 10. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) A quorum of the board may summarily suspend a license against which disciplinary action or an investigation is pending if the board determines that summary suspension is necessary in order to protect the public. When it appears that summary suspension may be necessary, the executive director shall issue to the licensee a written notice setting forth the basis for the action and the date, time, and location for a hearing before a quorum of the board. The hearing date shall be held within fifteen (15) days from the date the notice is mailed by first class mail to the last known address of the licensee.

(2) The issue to be decided at the hearing shall be whether reasonable cause exists for the summary suspension of a license in order to protect the public, pending the outcome of the underlying disciplinary action or investigation. The subpoena powers and procedures applicable to regular disciplinary hearings shall apply, except for any provisions of administrative regulations for prehearing disclosure of evidence.

(3) The determination by the quorum of the board shall be reported to the full board for a final decision in the same manner as in regular disciplinary proceedings.

(4) A determination by the quorum of the board that reasonable cause exists for the summary suspension of a license shall operate to suspend that license as of the hearing date. Continued practice after that date shall be considered as the unlicensed practice of veterinary medicine.

(5) The board shall expedite disciplinary actions in which a license has been summarily suspended.

(6) The order of summary suspension shall remain in effect until overturned by the board or superseded by final disciplinary action by the board. In cases where disciplinary action is imposed, the board may order that the summary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.

SECTION 11. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board shall have the authority to enter into an agreement with the Kentucky Veterinary Medical Association for a veterinary medical impairment committee to undertake the functions and responsibilities of an impaired veterinarian program, as specified in the agreement. The functions and responsibilities may include any of the following:

(a) Receiving and evaluating reports of suspected impairment from any source;

(b) Intervening in cases of verified impairment; or

(c) Referring impaired veterinarians to treatment programs.

(2) Other provisions of law notwithstanding, all board and committee records pertaining to the impaired veterinarian program shall be kept confidential and shall not be subject to discovery or subpoena. No person in attendance at any meeting of the committee shall be required to testify as to any committee discussions or proceedings.

(3) Other provisions of law notwithstanding, no member of the board of the Kentucky Veterinary Medical Association or the Veterinary Medical Impaired Committee shall be liable for damages to any person for any acts, omissions, or recommendations made by him in good faith while acting within the scope of his responsibilities pursuant to this section.

SECTION 12. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a license as a "veterinarian" to an applicant who meets the following requirements:

(a) Has paid the application fee and the appropriate examination fee to the board;

(b) Is a person of good moral character;

(c) Has received a degree from a veterinary college approved by the board;

(d) Has achieved a passing score, as set by the board, on all portions of the examinations required by the board; and

(e) Has attended a board sponsored orientation program and oral interview.

(2) The application fee for licensure and examination fee shall be promulgated by administrative regulation of the board.

(3) The examination shall consist of the following parts:

(a) The National Board Examination for Veterinary Medical Licensing;

(b) The Clinical Competency Test in Veterinary Medicine; and

(c) A state examination which covers applicable state and federal law and administrative regulations relative to the practice of veterinary medicine in the Commonwealth of Kentucky.

(4) All candidates for licensure shall pass all portions of the examination before being issued a license to practice. Candidates who fail to achieve a passing score in one or more areas shall be required to retake and achieve a passing score on only those portions of the examination on which they have previously failed to achieve a passing score.

SECTION 13. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) Each person licensed as a veterinarian shall annually, on or before September 30, pay to the board a renewal fee to be promulgated by administrative regulation of the board for the renewal of his license. All licenses not renewed by September 30 of each year shall expire based on the failure of the individual to renew in a timely manner.

(2) A sixty (60) day grace period shall be allowed after September 30, during which time individuals may renew their licenses upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the board. All licenses not renewed by November 30 shall terminate based on the failure of the individual to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(3) After the sixty (60) day grace period, individuals with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. No person who applies for reinstatement after termination of his license shall be required to submit to any examination as a condition for reinstatement, if reinstatement application is made within five (5) years from the date of termination.

(4) A suspended license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.

(5) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (3) of this section and the renewal fee as set forth in subsection (1) of this section.

(6) A person who fails to reinstate his license within five (5) years after its termination may not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements of this chapter.

(7) The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by the board by administrative regulation.

SECTION 14. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license, or may suspend, revoke, impose probationary or supervisory conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee has:

(a) Committed any act of dishonesty or corruption, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. Conviction includes all instances in which a plea of no contest on the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

(c) Committed any unfair, false, misleading or deceptive act or practice;

(d) Been incompetent or negligent in the practice of veterinary medicine;

(e) Violated any state statute or administrative regulation governing the practice of veterinary medicine, or any activities undertaken by a veterinarian;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Aided or abetted an unlicensed person in the unlawful practice of veterinary medicine;

(h) Violated the code of ethical conduct as set forth by the board by administrative regulation; or

(i) Violated any applicable provision of any federal or state law or regulation regarding the dispensing of controlled or legend drugs.

(2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of veterinary medicine.

(3) When in the judgment of the board, an alleged violation is not of a serious nature, and the evidence presented to the board after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written reprimand to the licensee. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the reprimand within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request the board shall set aside the written reprimand and set the matter for hearing.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspensions or other disciplinary action.

SECTION 15. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of this chapter and shall have the responsibility of evaluating the qualifications of applicants for licensure.

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths and investigate allegations of practices violating the provisions of this chapter.

(3) The board may promulgate administrative regulations pursuant to Chapter 13A and this chapter to carry out the provisions of this chapter.

(4) The board may conduct hearings and keep records and minutes necessary to carry out the function of this chapter.

(5) The board may evaluate the qualifications and authorize the issuance of licenses or registration to qualified candidates.

(6) The board may renew licenses and registrations and require continuing education as a condition for renewal.

(7) The board may suspend, or revoke licenses, or impose supervisory or probationary conditions upon licensees, or impose administrative disciplinary fines, issue written reprimands, or any combination thereof.

(8) The board may seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of veterinary medicine by unlicensed persons.

(9) The board may issue information to the media or purchase advertising in local, regional or statewide media to inform the public of the activities of an unlicensed person.

Section 16. KRS 321.190 is amended to read as follows:

Except as provided in KRS 321.200, no person shall practice veterinary medicine or perform any of the duties usually performed by a veterinarian unless ***the*** [~~such~~] person at the time holds a certificate of license to practice veterinary medicine issued and validly existing under the laws of this Commonwealth [~~and whose license is duly recorded in the county in which the holder resides~~], as provided in this chapter. No person who violates any of the provisions of this section ***shall*** [~~may~~] receive or accept any compensation for services [~~so~~] rendered.

Section 17. KRS 321.200 is amended to read as follows:

(1) ***No provision*** [~~None of the provisions~~] of this chapter shall be construed to prohibit any of the following:

(a) Any persons from gratuitously treating animals in cases of emergency if they do not represent themselves to be veterinarians or use any title or degree pertaining to veterinary practice***;***[~~.~~]

(b) The owner of any animal or animals and the owner's full-time, ***or part-time,*** regular employees from caring for and treating any animals belonging to ***the*** [~~such~~] owner. ***Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this provision;***

(c) Any person from castrating ***food*** animals ***and***[~~, from~~] dehorning cattle, ***as long as any drugs or medications are obtained and used in accordance with applicable federal statutes and regulations governing controlled and legend drugs.*** [~~or trimming or cutting the ears or tail of dogs, from treating minor sprains, cuts or other minor injuries of animals when such person does not represent himself to be a veterinarian or use any title or degree pertaining to veterinary medicine~~].

(d) Any student enrolled in any ***approved*** veterinary school or college [~~or any employee~~] from working under the [~~direct instructions, direct control or~~] direct supervision of a veterinarian who is duly licensed under the laws of this Commonwealth and whose compensation is paid solely by ***the*** [~~such~~] licensed veterinarian***;***[~~.~~]

(e) Nonlicensed ***graduate*** veterinarians [~~and others~~] in the United States ***Armed Services*** [~~Army~~] or ***employees of the Animal and Plant Health Inspection Service of the United States Department of Agriculture or the Kentucky Department of Agriculture, Division of Animal Health*** [~~United States Bureau of Animal Industry~~] while engaged in the performance of their official duties, or other lawfully qualified veterinarians residing in other states, ***from*** meeting licensed veterinarians of this ***Commonwealth*** [~~state~~] in consultation***;***

(f) A trainer, sales agent, or herdsman from caring for animals, provided there is a veterinary-client-patient relationship, as defined in Section 3 of this Act; or

(g) A university faculty member from teaching veterinary science or related courses, or a faculty member or staff member from engaging in veterinary research, including drug and drug testing research, provided

that research is conducted in accordance with applicable federal statutes and regulations governing controlled and legend drugs[~~; or any lawfully qualified veterinarian residing near the border of a neighbor state and authorized under the laws of that state to practice veterinary medicine in that state whose practice extends into the limits of this state; but such practitioner shall not open any office or appoint any place to meet clients or prospective clients within the limits of this state.~~

~~(f) Any person from treating diseases of animals for compensation at any place which is twenty (20) miles or more distant from the office or place of business of the nearest practicing veterinarian who is licensed as such under the laws of this Commonwealth~~].

(2) Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist [~~or prevent him from selling drugs, medicines, appliances or any other product used in the prevention or treatment of swine diseases~~].

Section 18. KRS 321.230 is amended to read as follows:

There hereby is created a board to be known as the "Kentucky Board of Veterinary Examiners." ***The*** [~~Said~~] board shall consist of ***eight (8)*** [~~the commissioner, who shall be chairman, and four (4)~~] members appointed by the Governor***, and the Commissioner of Agriculture or his designee. Seven (7)*** [~~Three (3)~~] members shall be citizens of the Commonwealth of Kentucky ***and*** [~~who~~] shall ***each*** have been lawfully engaged in the practice of veterinary medicine in this Commonwealth for at least ***two (2)*** [~~five (5)~~] years next preceding the date of his appointment. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. ***The four (4) appointed members serving on the effective date of this Act shall continue to serve as board members until their respective terms expire. The four (4) appointed members to be added to the board by this section, shall originally be appointed as follows: one (1) member to a one (1) year term, one (1) member for a two (2) year term, one (1) member for a three (3) year term, and one (1) member for a four (4) year term. All appointed*** [~~No person shall be eligible to be or remain an appointed member of said board who during any part of the aforesaid five-year period next preceding his appointment, or at the time of his appointment, or during his term is or has been a stockholder, member of the faculty or board of trustees of any college of veterinary medicine, surgery or dentistry that awards a degree in any of these subjects, or who is financially interested in any such college. The~~] members ***thereafter*** shall be appointed for a term of four (4) years. Any vacancy in the ***appointed*** membership of ***the*** [~~said~~] board shall be filled for the unexpired term by appointment by the Governor. [~~Annually the Governor shall appoint one (1) member of said board, qualified as aforesaid, for the four-year term.~~] Each member of the board shall receive ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] per day for each day of service actually given in carrying out his duties under this chapter, in addition to his necessary traveling, hotel and contingent expenses incurred in attending the meetings of the board and in the performance of his duties[~~; to be paid as the compensation and expenses of other officers are paid, except that they shall be paid out of the funds received under this chapter. Each member, before beginning his term of office, shall file with the Secretary of State his written oath for the faithful discharge of his official duties~~].

Section 19. KRS 321.240 is amended to read as follows:

(1) The ***board*** [~~members of the board shall hold their first meeting as soon as practicable after they are appointed and qualified. They~~] shall ***annually elect a chairman,*** [~~immediately proceed to organize by electing~~] a vice chairman, and a secretary-treasurer ***from the appointed members of the board.*** [~~The last officer, namely, secretary-treasurer, need not be a member of the board but shall possess all of the qualifications required of a person to be eligible for appointment as a member of said board. Said officers shall hold their respective offices at the pleasure of the board.~~]

(2) The board shall hold at least two (2) meetings annually for the purpose of giving examinations under this chapter and [~~such~~] additional meetings [~~for examinations or for any other purposes~~] as the board may deem necessary. ***The additional meetings may be held upon call of the chairman or upon written request of three (3) members of the board. Five (5) members of the board shall constitute a quorum to conduct business.***

(3) ***The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.***

(4) Upon recommendation of the board, the Governor may remove any member of the board for a poor attendance record, neglect of duty, or malfeasance in office [~~All meetings of the board shall be held at such time and at such place as the board may see fit, and due notice shall be given to all applicants for examination for a license of the time and place at which the examination will be given~~].

[~~(4) Said board shall adopt and have a common seal bearing the name "Kentucky State Board of Veterinary Examiners."~~]

(5) The board shall ***promulgate administrative*** [~~make and adopt such bylaws, rules and~~] regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of this chapter***, including regulations to establish authorized fees. Fees may not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of this chapter.***

(6) The board shall promulgate a code of conduct governing the practice of veterinary medicine[~~, veterinary surgery, and veterinary dentistry~~] which shall be based upon generally recognized principles of professional ethical conduct.

Section 20. KRS 321.320 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of this chapter [~~shall be paid to the secretary-treasurer of the board for the use of the board and~~] shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this Commonwealth. The compensation of members of the board [~~and secretary-treasurer of the board~~] and all of the employees of the board and all expenses incurred by the board shall be paid from this revolving fund. [~~No such compensation or expenses shall be charged against the general funds of this Commonwealth. The board shall file an annual report of its activities with the Governor and such report shall include a statement of all receipts and disbursements.~~]

Section 21. KRS 321.360 is amended to read as follows:

The board, [~~before denying an application for license under the provisions of KRS 321.340 or~~] before suspending***,*** [~~or~~] revoking***, imposing probationary or supervisory conditions upon, imposing an administrative fine, or any combination of actions regarding*** any license under the provisions of ***this chapter*** [~~KRS 321.340 and 321.350~~], shall set the matter [~~down~~] for hearing. ***After denying an application under the provisions of this chapter, or issuing a written reprimand, the board shall grant a hearing to the denied applicant only upon written request of the applicant made within thirty (30) days of the date of the letter advising of the denial or the reprimand.***[~~; and,~~] At least twenty (20) days prior to the date set for the hearing***, the board*** [~~it~~] shall notify the applicant or licensee in writing. ***The***[~~, which said~~] notice shall contain an exact statement of the charges made and the date***, time,*** and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. [~~Such~~] Written notice may be served by delivery of the ***notice*** [~~same~~] personally to the applicant or licensee or by mailing ***the notice*** [~~same~~] by certified mail, return receipt requested to the last known [~~business~~] address of such applicant or licensee. The hearing on such charges shall be at such time and place as the board shall prescribe.

Section 22. KRS 321.400 is amended to read as follows:

(1) Any party aggrieved by ***a disciplinary*** [~~the~~] action of the board [~~in refusing to grant a license, or in suspending or revoking a license upon the basis of the provisions of KRS 321.340 and 321.350, or either of said sections, within thirty (30) days after the entry by the board of such order of refusal, revocation or suspension,~~] may bring an action against the board in the Franklin Circuit Court ***within thirty (30) days of the date of issuance of the disciplinary action*** to vacate or set aside the order of the board on the ground that it is unlawful or unreasonable. [~~Service of summons or any notice upon the board may be made on the chairman or the secretary-treasurer of the board, which will constitute effective service on said board and all its members.~~]

(2) The answer of the board shall be filed within twenty (20) days after the board is served with process in ***an*** [~~such~~] action. [~~The action will then be at issue, and stand ready for trial upon ten (10) days' notice to either party, on the equity side of the docket of the court. Injunctive relief may be granted by the court in the manner and upon the terms provided by law.~~]

Section 23. KRS 321.990 is amended to read as follows:

Any person who shall violate or aid in the violation of any of the provisions of ***Sections 1 to 22 of this Act*** [~~KRS 321.180 to 321.430~~] shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500), or sentenced to jail for not less than ten (10) nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury.

Section 24. The following KRS sections are repealed:

321.180 Definitions — What constitutes practice of veterinary medicine.

321.210 Status of existing licenses — Renewal of licenses — Licensing of persons who practiced prior to 1916.

321.220 Licensing of person holding license from another state or country — Reciprocity.

321.250 Compensation and bond of secretary-treasurer — Employees — Facilities.

321.260 Examination for license — Qualifications of applicants — Form of application — Fee — Issuing and recording of licenses.

321.270 Examination subjects — Written and practical examinations — Re-examinations — Conduct of examinations — Grades.

321.280 Records of proceedings of board — Notice of denial of license.

321.290 Recording of license with county clerk.

321.300 Listing and report of licenses filed with county clerk.

321.310 Collecting and accounting for fees — Records of licensees.

321.330 Annual renewal of licenses — Continuing education required — Revocation on failure to renew — Exception.

321.340 Grounds for refusing to issue license.

321.350 Grounds for suspension or revocation of license.

321.370 Witnesses and evidence at hearings — Coercion of witnesses.

321.380 Fees of witnesses and officers.

321.390 Decision as to refusal, suspension or revocation of license — Findings of fact — Notice to county clerk.

321.410 Procedure in action — Judgment — Appeal to Court of Appeals.

321.420 No license for five years after revocation.

321.430 Injunction against unauthorized practice.

321.440 Animal technician — Qualifications.

321.450 Permit for use of animal technician — Annual fee — Veterinarian's responsibility — Limitation of services.

The Committee Substitute to **SB 250** is as follows:

SB 250, AN ACT relating to the practice of veterinary medicine.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

It is hereby declared that the practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of public health, safety and welfare. To protect the public from being misled by incompetent, unscrupulous and unauthorized practitioners, and from unprofessional or illegal practices by persons licensed to practice veterinary medicine, Sections 1 to 23 of this Act are enacted in the interest of the health, safety and welfare of the animal population and the citizens of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) ''Board'' means the Kentucky Board of Veterinary Examiners;

(2) ''Animal'' means any animal, except human beings;

(3) ''Compensation'' includes any gift, bonus, fee, money, credit or other thing of value;

(4) "Veterinarian" means a practitioner of veterinary medicine who is duly licensed in the Commonwealth of Kentucky;

(5) "Practice of veterinary medicine" means:

(a) To diagnose, treat, correct, change, relieve, or prevent: animal disease, deformity, defect, injury or other physical or mental conditions, including the prescription or administration of any drug, medicine, biologic, apparatus, application, anesthetic, or other therapeutic or diagnostic substance or technique, and the use of any manual or mechanical procedure for testing for pregnancy, or for correcting sterility or infertility or to render advice or recommendation with regard to any of the above;

(b) To engage in veterinary surgery, obstetrics, embryo transfer, dentistry, acupuncture, manipulation and all other branches or specialties of veterinary medicine and the prescribing, administering, or dispensing of drugs and medications for veterinary purposes, in accordance with the applicable federal statutes and regulations governing controlled prescription and legend drugs; and

(c) To use any title, words, abbreviation, or letters in a manner or under circumstances which induce the belief that the person using them is qualified to do any act described in subsections 5(a) and (b) of this section.

(6) "Embryo transfer" means to remove any embryo from any animal for the purpose of transplanting the embryo into another female animal or for the purpose of cryopreserving the embryo, or to implant the embryo into any animal, including food and companion animals;

(7) "Chemical restraint" means the use of any prescription or legend drug that restrains or tranquilizes the animal;

(8) "Direct supervision" means the veterinarian is on the premises, and is quickly and easily available, and the animal has been examined by a veterinarian at the times acceptable veterinary medical practice requires, consistent with the particular delegated animal health care tasks;

(9) "Indirect supervision" means the veterinarian does not have to be on the premises as long as a valid veterinary/client/patient relationship has been established and the veterinary technologist, veterinary technician, or veterinary assistant has been instructed on the applicable animal health care tasks in accordance with Sections 7 and 8 of this Act.

(10) "Emergency" means the animal has been placed in a life threatening condition and immediate treatment is necessary to sustain life;

(11) "Impaired veterinarian program" means the Kentucky Veterinary Medical Association sponsored program for the identification, intervention and monitoring of veterinarians impaired as a result of alcoholism, chemical dependence, or drug abuse;

(12) "Veterinary medical impairment committee" means a committee of the Kentucky Veterinary Medical Association, comprised of individuals who have expertise in the areas of alcoholism, chemical dependence, drug abuse or physical or mental illness, that has been designated by the Kentucky Veterinary Medical Association to perform activities related to the impaired veterinarian program.

(13) "Veterinary technologist" means a person who has successfully completed an accredited program of veterinary technology approved by the board and who is registered in accordance with Section 7 of this Act;

(14) "Veterinary technician" means a person who has an associate degree related to veterinary sciences, or its equivalent as approved by the board and who is registered in accordance with Section 7 of this Act;

(15) "Veterinary assistant" means a lay person employed by a licensed veterinarian in accordance with Section 8 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) In order for a veterinarian to practice veterinary medicine, a relationship among the veterinarian, the client and the patient shall be established and maintained. "Veterinarian-client-patient relationship" means that:

(a) The veterinarian has assumed the responsibility for making judgments regarding the health of the animal and the need for veterinary treatment, and the client, whether owner or other caretaker, has agreed to follow the instructions of the veterinarian;

(b) There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal, and by medically appropriate and timely visits to the premises where the animal is kept; and

(c) The practicing veterinarian is readily available or shall provide medical service for follow-up in case of adverse reactions or failure of the regimen of therapy. A new regimen of therapy shall be contingent only upon cooperation of the client and availability of the subject animal.

(2) The veterinarian shall maintain records which document patient visits, diagnosis, treatment and other relevant information.

SECTION 4. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue a license by endorsement to any applicant who, upon applying to the board and remitting a fee set by the board, demonstrates to the board that he has met the following requirements:

(a) The applicant is a graduate of a veterinary college approved by the board;

(b) The applicant is of good moral character;

(c) The applicant holds a valid license to practice veterinary medicine and has practiced veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States for at least one (1) year immediately preceding application, if the requirements for licensure in the issuing state are equal to or higher than the standards required for the issuance of a new license under the provisions of this chapter; and

(d) The applicant has passed an examination given by the board on the laws and administrative regulations of the Commonwealth of Kentucky governing the practice of veterinary medicine.

(2) The board shall not issue a license by endorsement to any applicant who is under investigation in another state, territory, or the District of Columbia for an act which could result in disciplinary action in that jurisdiction until the investigation and disciplinary proceedings have been completed.

SECTION 5. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board may issue a special permit to practice veterinary medicine to:

(a) A nonlicensed veterinarian who is a qualified applicant to become a licensed veterinarian by examination, and who is employed by and under the direct supervision of a Kentucky licensed veterinarian. The special permit shall be issued after the application has been made to take the next examination given by the board and the required fees paid. A letter of recommendation from the supervising licensed veterinarian shall be submitted with the application. The special permit shall expire the day after the notice of results of the first examination given after the permit was issued.

(b) A veterinarian who is licensed in, and who has practiced for one (1) year immediately preceding application in another state, territory, or district of the United States whose licensing requirements are equal to or higher than those of Kentucky, and who has made application to take the next examination given by the board and paid the required fees. The special permit shall expire the day after the notice of results of the first examination given after the permit was issued.

(2) A special permit may be subject to the disciplinary procedures as set forth in Section 14 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

A veterinarian who wishes to retire his license shall complete an affidavit indicating permanent retirement of the license to practice veterinary medicine. Retirement shall not be permitted if the veterinarian is still engaged in veterinary medicine in any other state. If reactivation of licensure is desired, a veterinarian shall submit proof of the completion of the continuing education requirements of Section 13 of this Act within the last twelve (12) months and remit appropriate renewal fees.

SECTION 7. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) An applicant for registration as a veterinary technologist shall be a graduate of an accredited program of veterinary technology approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technician shall possess an associate degree related to veterinary sciences, or its equivalent, approved by the board and have met all the requirements of the board. An applicant for registration as a veterinary technologist or veterinary technician shall pass a written and practical examination as determined by the board to assess the qualifications and fitness of an applicant to engage in the practice.

(2) Registration issued to a veterinary technologist or veterinary technician shall not be active until the veterinary technologist or veterinary technician is employed and is under the direct supervision of a veterinarian licensed in this Commonwealth. A veterinary technologist or veterinary technician's registration is considered to be inactive until registration is activated by returning a renewal application signed by the supervising veterinarian and the application is approved by the board. Each veterinary technologist or veterinary technician registered by the board shall pay an annual fee as prescribed by the board. Each veterinary technologist or veterinary technician registered by the board shall attend annual continuing education hours as required by the board to renew the registration. Failure to renew shall result in the termination of registration. If a hearing is requested upon the rejection of an application, or upon the termination of registration, a hearing shall be conducted in accordance with the provision of Section 21 of this Act.

(3) The services of a veterinary technologist or veterinary technician shall be limited to the performance of duties under the direct supervision of a licensed veterinarian except for the routine administration of drugs, vaccines, parasite control agents and growth stimulating implants for food animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists. A veterinary technologist or veterinary technician shall receive no fee or compensation for services other than salary or compensation paid by the establishment by which the veterinary technologist or veterinary technician is employed. A veterinary technologist or veterinary technician shall not participate in the operation of a branch office, clinic or allied establishment unless a licensed veterinarian is on the premises. A veterinary technologist or veterinary technician shall not diagnose, prescribe medication or treatment, or perform surgical procedures other than castrating and dehorning of food animals. A veterinary technologist or veterinary technician may assist a veterinarian in all duties of veterinary medicine and surgery.

(4) A veterinarian shall utilize the services of a veterinary technologist or veterinary technician in accordance with the terms and provisions of this chapter. Unauthorized utilization of veterinary technologist or veterinary technicians by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in Section 14 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) A veterinary assistant may work only under the direct supervision of a veterinarian except for the routine administration of drugs, vaccines, parasite control agents, and growth stimulating implants for food animals prescribed by a veterinarian and under the indirect supervision of a veterinarian where a veterinarian-client-patient relationship exists.

(2) Duties of a veterinary assistant shall exclude diagnosing, prescribing medication or treatment, and performance of surgical procedures other than castrating and dehorning of food animals.

(3) A veterinarian shall utilize the service of a veterinary assistant in accordance with the terms and provisions of this chapter. Unauthorized utilization of veterinary assistants shall be considered as aiding and abetting an unlicensed person to practice veterinary medicine as described in Section 14 of this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

A veterinarian may:

(1) Make farm or house calls in a motor vehicle or utilize a motor vehicle equipped with special medical or surgical equipment if the veterinarian has a permanent base of operations with a published address and telephone number recorded with the board where the veterinarian may be contacted.

(2) Apply the principles of environmental sanitation, food inspection, animal nutrition, artificial insemination, environmental pollution control, zoonotic disease control, and disaster medicine in the promotion and protection of public health; and

(3) Engage in the collection of hazardous biological specimens and the use of vaccine which may be injurious to humans, in accordance with applicable federal statutes and regulations.

SECTION 10. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board shall have the authority to enter into an agreement with the Kentucky Veterinary Medical Association for a veterinary medical impairment committee to undertake the functions and responsibilities of an impaired veterinarian program, as specified in the agreement. The functions and responsibilities may include any of the following:

(a) Receiving and evaluating reports of suspected impairment from any source;

(b) Intervening in cases of verified impairment; or

(c) Referring impaired veterinarians to treatment programs.

(2) Other provisions of law notwithstanding, all board and committee records pertaining to the impaired veterinarian program shall be kept confidential. No person in attendance at any meeting of the committee shall be required to testify as to any committee discussions or proceedings.

(3) Other provisions of law notwithstanding, no member of the board of the Kentucky Veterinary Medical Association or the Veterinary Medical Impaired Committee shall be liable for damages to any person for any acts, omissions, or recommendations made by him in good faith while acting within the scope of his responsibilities pursuant to this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a license as a "veterinarian" to an applicant who meets the following requirements:

(a) Has paid the application fee and the appropriate examination fee to the board;

(b) Is a person of good moral character;

(c) Has received a degree from a veterinary college approved by the board;

(d) Has achieved a passing score, as set by the board, on all portions of the examinations required by the board; and

(e) Has attended a board sponsored orientation program and oral interview.

(2) The application fee for licensure and examination fee shall be promulgated by administrative regulation of the board.

(3) The examination shall consist of the following parts:

(a) The National Board Examination for Veterinary Medical Licensing;

(b) The Clinical Competency Test in Veterinary Medicine; and

(c) A state examination which covers applicable state and federal law and administrative regulations relative to the practice of veterinary medicine in the Commonwealth of Kentucky.

(4) All candidates for licensure shall pass all portions of the examination before being issued a license to practice. Candidates who fail to achieve a passing score in one or more areas shall be required to retake and achieve a passing score on only those portions of the examination on which they have previously failed to achieve a passing score.

SECTION 12. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) Each person licensed as a veterinarian shall annually, on or before September 30, pay to the board a renewal fee to be promulgated by administrative regulation of the board for the renewal of his license. All licenses not renewed by September 30 of each year shall expire based on the failure of the individual to renew in a timely manner.

(2) A sixty (60) day grace period shall be allowed after September 30, during which time individuals may renew their licenses upon payment of the renewal fee plus a late renewal fee as promulgated by administrative regulation of the board. All licenses not renewed by November 30 shall terminate based on

the failure of the individual to renew in a timely manner. Upon termination, the licensee is no longer eligible to practice in the Commonwealth.

(3) After the sixty (60) day grace period, individuals with a terminated license may have their licenses reinstated upon payment of the renewal fee plus a reinstatement fee as promulgated by administrative regulation of the board. No person who applies for reinstatement after termination of his license shall be required to submit to any examination as a condition for reinstatement, if reinstatement application is made within five (5) years from the date of termination.

(4) A suspended license is subject to expiration and termination and shall be renewed as provided in this chapter. Renewal shall not entitle the licensee to engage in the practice until the suspension has ended, or is otherwise removed by the board and the right to practice is restored by the board.

(5) A revoked license is subject to expiration or termination but may not be renewed. If it is reinstated, the licensee shall pay the reinstatement fee as set forth in subsection (3) of this section and the renewal fee as set forth in subsection (1) of this section.

(6) A person who fails to reinstate his license within five (5) years after its termination may not have it renewed, restored, reissued, or reinstated. A person may apply for and obtain a new license by meeting the current requirements of this chapter.

(7) The board may require that a person applying for renewal or reinstatement of licensure show evidence of completion of continuing education as prescribed by the board by administrative regulation.

SECTION 13. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue a license, or may suspend, revoke, impose probationary or supervisory conditions upon, impose an administrative fine, issue a written reprimand, or any combination thereof regarding any licensee upon proof that the licensee has:

(a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. Conviction includes all instances in which a plea of no contest on the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining a license, or in reinstatement thereof;

(c) Committed any unfair, false, misleading or deceptive act or practice;

(d) Been incompetent or negligent in the practice of veterinary medicine;

(e) Violated any state statute or administrative regulation governing the practice of veterinary medicine or any activities undertaken by a veterinarian;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethical conduct as set forth by the board by administrative regulation; or

(h) Violated any applicable provision of any federal or state law or regulation regarding the dispensing of controlled or legend drugs.

(2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with any terms prescribed by the board and is again able to competently engage in the practice of veterinary medicine.

(3) When in the judgment of the board, an alleged violation is not of a serious nature, and the evidence presented to the board after the investigation and appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur, the board may issue a written reprimand to the licensee. A copy of the reprimand shall be placed in the permanent file of the licensee. The licensee shall have the right to file a response to the reprimand within thirty (30) days of its receipt and to have the response placed in the permanent licensure file. The licensee may alternatively, within thirty (30) days of the receipt, file a request for hearing with the board. Upon receipt of this request the board shall set aside the written reprimand and set the matter for hearing.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.

(5) The board may reconsider, modify, or reverse its probation, suspensions or other disciplinary action.

SECTION 14. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board shall administer and enforce the provisions of this chapter and shall have the responsibility of evaluating the qualifications of applicants for licensure.

(2) The board may issue subpoenas, examine witnesses, pay appropriate witness fees, administer oaths and investigate allegations of practices violating the provisions of this chapter.

(3) The board may promulgate administrative regulations pursuant to Chapter 13A and this chapter to carry out the provisions of this chapter.

(4) The board may conduct hearings and keep records and minutes necessary to carry out the function of this chapter.

(5) The board may evaluate the qualifications and authorize the issuance of licenses or registration to qualified candidates.

(6) The board may renew licenses and registrations and require continuing education as a condition for renewal.

(7) The board may suspend, or revoke licenses, or impose supervisory or probationary conditions upon licensees, or impose administrative disciplinary fines, issue written reprimands, or any combination thereof.

(8) The board may seek injunctive relief in Franklin Circuit Court to stop the unlawful practice of veterinary medicine by unlicensed persons.

(9) The board may issue information to the media or purchase advertising in local, regional or statewide media to inform the public of the activities of an unlicensed person.

Section 15. KRS 321.190 is amended to read as follows:

Except as provided in KRS 321.200, no person shall practice veterinary medicine or perform any of the duties usually performed by a veterinarian unless ***the*** [~~such~~] person at the time holds a certificate of license to practice veterinary medicine issued and validly existing under the laws of this Commonwealth [~~and whose license is duly recorded in the county in which the holder resides~~], as provided in this chapter. No person who violates any of the provisions of this section ***shall*** [~~may~~] receive or accept any compensation for services [~~so~~] rendered.

Section 16. KRS 321.200 is amended to read as follows:

(1) ***No provision*** [~~None of the provisions~~] of this chapter shall be construed to prohibit any of the following:

(a) Any persons from gratuitously treating animals in cases of emergency if they do not represent themselves to be veterinarians or use any title or degree pertaining to veterinary practice***;***[~~.~~]

(b) The owner of any animal or animals and the owner's full-time, ***or part-time,*** regular employees from caring for and treating any animals belonging to ***the*** [~~such~~] owner. ***Transfer of ownership or a temporary contract shall not be used for the purpose of circumventing this provision;***

(c) Any person from castrating ***food*** animals ***and***[~~, from~~] dehorning cattle, ***as long as any drugs or medications are obtained and used in accordance with applicable federal statutes and regulations governing controlled and legend drugs.*** [~~or trimming or cutting the ears or tail of dogs, from treating minor sprains, cuts or other minor injuries of animals when such person does not represent himself to be a veterinarian or use any title or degree pertaining to veterinary medicine~~].

(d) Any student enrolled in any ***approved*** veterinary school or college [~~or any employee~~] from working under the [~~direct instructions, direct control or~~] direct supervision of a veterinarian who is duly licensed under the laws of this Commonwealth and whose compensation is paid solely by ***the*** [~~such~~] licensed veterinarian***;***[~~.~~]

(e) Nonlicensed ***graduate*** veterinarians [~~and others~~] in the United States ***Armed Services*** [~~Army~~] or ***employees of the Animal and Plant Health Inspection Service of the United States Department of Agriculture or the Kentucky Department of Agriculture, Division of Animal Health*** [~~United States Bureau of Animal Industry~~] while engaged in the performance of their official duties, or other lawfully qualified veterinarians residing in other states, ***from*** meeting licensed veterinarians of this ***Commonwealth*** [~~state~~] in consultation***;***

(f) A trainer, sales agent, or herdsman from caring for animals, provided there is a veterinary-client-patient relationship, as defined in Section 3 of this Act; or

(g) A university faculty member from teaching veterinary science or related courses, or a faculty member or staff member from engaging in veterinary research, including drug and drug testing research, provided that research is conducted in accordance with applicable federal statutes and regulations governing controlled and legend drugs; or

(h) Any person who holds a postgraduate degree in reproductive physiology or a related field, and who has performed embryo transfers in Kentucky during the five (5) years immediately preceding the effective date of this Act, from performing embryo transfers [~~, or any lawfully qualified veterinarian residing near the border of a neighbor state and authorized under the laws of that state to practice veterinary medicine in that state whose practice extends into the limits of this state; but such practitioner shall not open any office or appoint any place to meet clients or prospective clients within the limits of this state.~~

~~(f) Any person from treating diseases of animals for compensation at any place which is twenty (20) miles or more distant from the office or place of business of the nearest practicing veterinarian who is licensed as such under the laws of this Commonwealth~~].

(2) Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist [~~or prevent him from selling drugs, medicines, appliances or any other product used in the prevention or treatment of swine diseases~~].

Section 17. KRS 321.230 is amended to read as follows:

There hereby is created a board to be known as the "Kentucky Board of Veterinary Examiners." ***The*** [~~Said~~] board shall consist of ***eight (8)*** [~~the commissioner, who shall be chairman, and four (4)~~] members appointed by the Governor***, and the Commissioner of Agriculture or his designee. Seven (7)*** [~~Three (3)~~] members shall be citizens of the Commonwealth of Kentucky ***and*** [~~who~~] shall ***each*** have been lawfully engaged in the practice of veterinary medicine in this Commonwealth for at least ***two (2)*** [~~five (5)~~] years next preceding the date of his appointment. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. ***The four (4) appointed members serving on the effective date of this Act shall continue to serve as board members until their respective terms expire. The four (4) appointed members to be added to the board by this section, shall originally be appointed as follows: one (1) member to a one (1) year term, one (1) member for a two (2) year term, one (1) member for a three (3) year term, and one (1) member for a four (4) year term. All appointed*** [~~No person shall be eligible to be or remain an appointed member of said board who during any part of the aforesaid five-year period next preceding his appointment, or at the time of his appointment, or during his term is or has been a stockholder, member of the faculty or board of trustees of any college of veterinary medicine, surgery or dentistry that awards a degree in any of these subjects, or who is financially interested in any such college. The~~] members ***thereafter*** shall be appointed for a term of four (4) years. Any vacancy in the ***appointed*** membership of ***the*** [~~said~~] board shall be filled for the unexpired term by appointment by the Governor. [~~Annually the Governor shall appoint one (1) member of said board, qualified as aforesaid, for the four-year term.~~] Each member of the board shall receive ***one hundred*** [~~twenty-five~~] dollars ***($100)*** [~~($25)~~] per day for each day of service actually given in carrying out his duties under this chapter, in addition to his necessary traveling, hotel and contingent expenses incurred in attending the meetings of the board and in the performance of his duties[~~, to be paid as the compensation and expenses of other officers are paid, except that they shall be paid out of the funds received under this chapter. Each member, before beginning his term of office, shall file with the Secretary of State his written oath for the faithful discharge of his official duties~~].

Section 18. KRS 321.240 is amended to read as follows:

(1) The ***board*** [~~members of the board shall hold their first meeting as soon as practicable after they are appointed and qualified. They~~] shall ***annually elect a chairman,*** [~~immediately proceed to organize by electing~~] a vice chairman, and a secretary-treasurer ***from the appointed members of the board.*** [~~The last officer, namely, secretary-treasurer, need not be a member of the board but shall possess all of the qualifications required of a person to be eligible for appointment as a member of said board. Said officers shall hold their respective offices at the pleasure of the board.~~]

(2) The board shall hold at least two (2) meetings annually for the purpose of giving examinations under this chapter and [~~such~~] additional meetings [~~for examinations or for any other purposes~~] as the board may deem necessary. ***The additional meetings may be held upon call of the chairman or upon written request of three (3) members of the board. Five (5) members of the board shall constitute a quorum to conduct business.***

(3) ***The board may employ any other persons it deems necessary to carry on the work of the board, and shall define their duties and fix their compensation.***

(4) Upon recommendation of the board, the Governor may remove any member of the board for a poor attendance record, neglect of duty, or malfeasance in office [~~All meetings of the board shall be held at such time and at such place as the board may see fit, and due notice shall be given to all applicants for examination for a license of the time and place at which the examination will be given~~].

[~~(4) Said board shall adopt and have a common seal bearing the name "Kentucky State Board of Veterinary Examiners."~~]

(5) The board shall ***promulgate administrative*** [~~make and adopt such bylaws, rules and~~] regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of this chapter***, including regulations to establish authorized fees. Fees may not exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of this chapter.***

(6) The board shall promulgate a code of conduct governing the practice of veterinary medicine[~~, veterinary surgery, and veterinary dentistry~~] which shall be based upon generally recognized principles of professional ethical conduct.

Section 19. KRS 321.320 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of this chapter [~~shall be paid to the secretary-treasurer of the board for the use of the board and~~] shall be deposited in the State Treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this Commonwealth. The compensation of members of the board [~~and secretary-treasurer of the board~~] and all of the employees of the board and all expenses incurred by the board shall be paid from this revolving fund. [~~No such compensation or expenses shall be charged against the general funds of this Commonwealth. The board shall file an annual report of its activities with the Governor and such report shall include a statement of all receipts and disbursements.~~]

Section 20. KRS 321.360 is amended to read as follows:

The board, [~~before denying an application for license under the provisions of KRS 321.340 or~~] before suspending, [~~or~~] revoking***, imposing probationary or supervisory conditions upon, imposing an administrative fine, or any combination of actions regarding*** any license under the provisions of ***this chapter*** [~~KRS 321.340 and 321.350~~], shall set the matter [~~down~~] for hearing. ***After denying an application under the provisions of this chapter, or issuing a written reprimand, the board shall grant a hearing to the denied applicant only upon written request of the applicant made within thirty (30) days of the date of the letter advising of the denial or the reprimand.***[~~; and,~~] At least twenty (20) days prior to the date set for the hearing***, the board*** [~~it~~] shall notify the applicant or licensee in writing. ***The***[~~, which said~~] notice shall contain an exact statement of the charges made and the date***, time,*** and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. [~~Such~~] Written notice may be served by delivery of the ***notice*** [~~same~~] personally to the applicant or licensee or by mailing ***the notice*** [~~same~~] by certified mail, return receipt requested to the last known [~~business~~] address of such applicant or licensee. The hearing on such charges shall be at such time and place as the board shall prescribe.

Section 21. KRS 321.400 is amended to read as follows:

(1) Any party aggrieved by ***a disciplinary*** [~~the~~] action of the board [~~in refusing to grant a license, or in suspending or revoking a license upon the basis of the provisions of KRS 321.340 and 321.350, or either of said sections, within thirty (30) days after the entry by the board of such order of refusal, revocation or suspension,~~] may bring an action against the board in the Franklin Circuit Court ***within thirty (30) days of the date of issuance of the disciplinary action*** to vacate or set aside the order of the board on the ground that it is unlawful or unreasonable. [~~Service of summons or any notice upon the board may be made on the chairman or the secretary-treasurer of the board, which will constitute effective service on said board and all its members.~~]

(2) The answer of the board shall be filed within twenty (20) days after the board is served with process in ***an*** [~~such~~] action. [~~The action will then be at issue, and stand ready for trial upon ten (10) days' notice to either party, on the equity side of the docket of the court. Injunctive relief may be granted by the court in the manner and upon the terms provided by law.~~]

Section 22. KRS 321.990 is amended to read as follows:

Any person who shall violate or aid in the violation of any of the provisions of ***Sections 1 to 22 of this Act*** [~~KRS 321.180 to 321.430~~] shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500), or sentenced to jail for not less than ten (10) nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury.

Section 23. The following KRS sections are repealed:

321.180 Definitions — What constitutes practice of veterinary medicine.

321.210 Status of existing licenses — Renewal of licenses — Licensing of persons who practiced prior to 1916.

321.220 Licensing of person holding license from another state or country — Reciprocity.

321.250 Compensation and bond of secretary-treasurer — Employees — Facilities.

321.260 Examination for license — Qualifications of applicants — Form of application — Fee — Issuing and recording of licenses.

321.270 Examination subjects — Written and practical examinations — Re-examinations — Conduct of examinations — Grades.

321.280 Records of proceedings of board — Notice of denial of license.

321.290 Recording of license with county clerk.

321.300 Listing and report of licenses filed with county clerk.

321.310 Collecting and accounting for fees — Records of licensees.

321.330 Annual renewal of licenses — Continuing education required — Revocation on failure to renew — Exception.

321.340 Grounds for refusing to issue license.

321.350 Grounds for suspension or revocation of license.

321.370 Witnesses and evidence at hearings — Coercion of witnesses.

321.380 Fees of witnesses and officers.

321.390 Decision as to refusal, suspension or revocation of license — Findings of fact — Notice to county clerk.

321.410 Procedure in action — Judgment — Appeal to Court of Appeals.

321.420 No license for five years after revocation.

321.430 Injunction against unauthorized practice.

321.440 Animal technician — Qualifications.

321.450 Permit for use of animal technician — Annual fee — Veterinarian's responsibility — Limitation of services.

Calendar

HB 99, **HB 517**, **HB 776**, **HB 888**, **HCR 163**, **HJR 164**, **HB 528**, **HB 588**, **HB 740**, **HB 799**, **HB 919** and **SB 341** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 889 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 1 to **HB 326**, by Representative Deskins:

Amend printed copy of **HB 326** on page 1, line 6, after "***managers.***" by adding the following: "***A construction manager is an experienced and qualified construction contracting organization that is paid a fee for its professional management and supervision services.***";

On page 1, line 11, after "***considered***" by adding the following:

"***:***

(a) A list of successfully completed projects or a demonstrated capability to perform projects of a similar type;

(b) A descriptive detail of projects showing the experience and the ability to perform budget estimating, value engineering, and scheduling; and

(c) A list of experienced and qualified personnel with a track record of achieved quality and the capability to provide bidder solicitation";

On page 1, line 12, after "***(2)***" by deleting the remainder of the line, by deleting lines 13, 14, and 15 in their entirety, and by inserting the following: "***Adequate public notice of the invitation for proposals shall be given a sufficient time prior to the date set for the opening of proposals;***";

On page 1, lines 17 and 18, by deleting "***an independent official***" and inserting in lieu thereof the following: "***the architect or owner***";

On page 1, line 20, after "***with***" by deleting "***a***" and inserting in lieu thereof "***the largest local circulation;***";

On page 2, by deleting lines 1 and 2 in their entirety;

On page 2, line 3, after "***A***" by adding "***sample***"; and after "***services***" by adding the following: "***shall be developed by recommendation of a diversified committee consisting of Department of Education personnel, architects, and construction managers for the guidance of local school boards;***";

On page 2, by deleting lines 4 and 5 in their entirety;

On page 2, line 6, after "***(6)***" by deleting the remainder of the line, by deleting lines 7 and 8 in their entirety, and by inserting in lieu thereof the following: "***A requirement that established qualifications-based selection procedures be implemented by local boards when selecting firms to provide architectural and engineering services.***";

On page 2, line 14, by deleting "***accept bids from***" and insert in lieu thereof the following: "***award construction contracts to***";

On page 2, line 15, after "***interest***" by adding "***if less than two (2) bids are accepted***".

Floor Amendment No. 1 to **SB 190**, by Representative Little:

Amend printed copy of **SB 190/GA** on page 12, before line 1, insert the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) Each application for a permit shall include baseline ground water supply information for the permit area which shall be collected and submitted in a manner acceptable to the cabinet, and which shall include an inventory of wells, springs, underground mines; or other similar ground water supply facilities which are currently being used, have been used in the past, or have a potential to be used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the location, ownership, type of usage, and, where possible, the depth and diameter of wells, and approximate rate of usage, pumpage, or discharge from wells, springs, underground mines, and other ground water supply facilities, and seasonal ground water quantity and quality data collected over a six (6) month period from each well, spring, underground mine, or other similar ground water supply facility. The seasonal ground water quality data shall include test results for total dissolved solids or specific conductance, manganese, sulphates, pH, iron, sodium content, and other parameters as required by the cabinet.

(2) For areas outside the proposed permit area, the permit applicant may collect the same ground water supply information required in subsection (1) of this section.

(3) The results of the test of each water supply shall be provided by the applicant to the owner and user of the water supply, within thirty (30) days of taking the sample. A copy of the test results for all samples taken pursuant to subsections (1) and (2) of this section shall be made part of the permit application.

(4) The owner or user of a ground water supply may have his own independent tests conducted and may submit the results of the test to the cabinet and the cabinet shall consider the test results to be part of the permit application. If the water supply owner or user submits test results to the cabinet, the cabinet shall mail a copy of the test results to the applicant within ten (10) working days of receipt by the cabinet.

(5) Upon review of the permit application, the cabinet shall consider those test results submitted by both the applicant and the water supply owner or user, and if there is a discrepancy in the results, the cabinet may require the submission of additional information by the applicant or may conduct its own tests.

Section 4. KRS 350.085 is amended to read as follows:

(1) No application for a permit and no operation shall be approved or allowed by the cabinet if there is found on the basis of the information set forth in the application that the requirements of this chapter or regulations will not be observed or that there is not probable cause to believe that the proposed method of operation, backfilling, grading, or reclamation of the affected area can be carried out consistent with the purpose of this chapter.

(2) ***No permit application shall be approved unless the applicant affirmatively demonstrates, and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available which is documented in the approval and made available to the applicant and the public, that the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in KRS 350.060(7) has been made by the cabinet and that the proposed operation has been designed to protect water supplies and prevent material damage to the hydrologic balance outside the permit area.***

(3) If the cabinet finds that the overburden on any part of the area of land described in the application for a permit is such that experience in the Commonwealth with a similar type of operation upon land with similar overburden shows that substantial deposition of sediment in stream beds, landslides, or acid water pollution cannot feasibly be prevented, the cabinet may delete the part of the land described in the application upon which that overburden exists.

(4)[~~(3)~~] Subject to valid existing rights, no surface coal mining operations except those which existed on or before August 4, 1977, shall be permitted within three hundred (300) feet from any occupied dwelling unless waived by the owner, nor within three hundred (300) feet of any public building, school, church, community, or institutional building, public park, or within one hundred (100) feet of a cemetery. The cabinet shall not issue a permit if it finds that the operation will constitute a hazard to or do physical damage to a dwelling house, public building, school, church, cemetery, commercial or institutional building, public road, stream, lake, or other public property. The cabinet shall delete the areas from the permit application or operation.

(5)[~~(4)~~] Subject to valid existing rights, no surface coal mining operations except those which existed on or before August 4, 1977, shall be permitted within one hundred (100) feet of the outside right-of-way line of any public road, except where mine access roads or haulage roads join the right-of-way line. The cabinet shall permit the roads to be relocated or the area affected to lie within one hundred (100) feet of the road if, after public notice and opportunity for public hearing in the locality, a written finding is made that the interest of the public and the affected land owner will be protected, and shall not approve the application for a permit where the surface coal mining operation will adversely affect a wild river established pursuant to KRS Chapter 146, a state park, or place listed on the national register of historic places unless adequate screening and other measures as approved by the cabinet are incorporated into the permit application.

(6)[~~(5)~~] Subject to valid existing rights, no surface coal mining operations except those which existed on August 4, 1977, shall be permitted on any privately owned lands within the boundaries of units of the national park system, the national wildlife refuge systems, the national system of trails, the national wilderness preservation system, the wild and scenic rivers system, including study rivers designated under Section 5(a) of the Wild and Scenic Rivers Act, and national recreation areas designated by act of Congress.

(7)[~~(6)~~] If based on the information provided pursuant to KRS 350.060(3)(h) and other relevant information, the cabinet finds that any surface coal mining and reclamation operation owned or controlled by the applicant is currently in violation of this chapter or other requirements listed pursuant to KRS 350.060(3)(h), the cabinet shall not issue the permit or permit renewal until the applicant submits proof satisfactory to the cabinet that the violation has been corrected or is in the process of being corrected. It shall be grounds to deny a permit or permit renewal if the cabinet, based on any information available to it and after a hearing, makes a finding that the applicant, or the operator specified in the application has demonstrated a pattern of willful violations pursuant to KRS 350.130(3).

Section 5. KRS 350.151 is amended to read as follows:

(1) The Natural Resources and Environmental Protection Cabinet shall promulgate permanent program administrative regulations for the mining and reclamation of land disturbed or removed by operations resulting from or incident to underground coal mining. The regulations shall recognize the distinct differences between underground mining and strip mining of coal, shall be promulgated pursuant to this chapter, and shall be enforced as provided in KRS 350.130 and 350.990. Those activities may include, but not be limited to, the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and all lands affected by haulage, excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface, but the regulations shall not be more stringent than those applied to strip mining of coal.

(2) ***Any permit issued by the cabinet pursuant to this chapter and relating to underground coal mining, or the surface effects of underground mining, shall require the permit applicant to minimize disturbances of the prevailing hydrologic balance at the mine site and in associated off-site areas and to minimize disturbances to the quality and quantity of water in surface and ground water systems both during and after coal mining operations and during reclamation.***

(3) The operator shall file with the cabinet a reclamation bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000) conditioned upon the faithful performance of the requirements set forth in this section and of the administrative regulations of the cabinet. The cabinet shall forfeit the entire amount of the bond for the permit area or increment in the event of forfeiture. The cabinet shall accept, in lieu of the surety provided herein, the deposit by the operator of United States government securities, cash, or its equivalent in a sum equal to the principal amount of the required bond, or a self-bond pursuant to administrative regulations promulgated by the cabinet.

(4)[~~(3)~~] In order to protect the stability of the land, the cabinet shall suspend underground mining activities under urbanized areas, and adjacent to industrial or commercial buildings, major impoundments, or permanent streams, if the cabinet finds imminent danger to inhabitants of the urbanized areas.

SECTION 6. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

The cabinet shall periodically include in a complete inspection of a mining operation sample collection of surface water from one (1) or more discharge points and sample collection of ground water from one (1) or more monitoring wells. The results of a laboratory analysis, if conducted, shall be included as part of the inspection report.

Section 7. KRS 350.093 is amended to read as follows:

(1) As determined by administrative regulations of the cabinet, time and distance limits shall be established requiring backfilling, grading and planting to be kept current, so that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable under regulations promulgated by the cabinet. All backfilling and grading shall be completed before necessary equipment is moved from the operation; except that the cabinet may for good cause approve the moving of equipment before all backfilling and grading is completed.

(2) (a) The cabinet may allow an operator to defer the time criteria of contemporaneous reclamation requirements on specified areas if the operator can demonstrate that the deferment is necessary to address at least one (1) of the following:

1. Adverse condition including weather, labor and other conditions clearly beyond the operator's control;

2. Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.080; or

3. Coal marketing problems.

(b) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet. The applicant has the burden of establishing the need for the deferment. The applicant shall demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of the deferment. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but the aggregate deferral period shall not exceed thirty (30) months. The deferral shall not extend beyond the expiration date of the permit. The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.

(3) If the operator or other person desires to conduct drift mining or other underground mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for purposes at which places it will not be necessary to backfill until the drift or other underground mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of the locations shall be described and designated on the map attached thereto. If the operator or other person wishes to combine surface operations with underground mining operations to assure maximum practical recovery of coal resources, the cabinet may grant a variance, pursuant to regulations promulgated by the cabinet, for specific areas within the reclamation plan from the requirement that reclamation efforts proceed pursuant to subsection (1) of this section so as to permit underground mining operations prior to reclamation.

(4) The cabinet may release in whole or in part the reclamation bond or deposit for a particular operation if the cabinet is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter. These bond releases shall be made in accordance with the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.

(b) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, additional bond or collateral for the applicable permit shall be released. When determining the amount of bond to be released after successful revegetation has been established, the cabinet shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation; this amount shall be retained for the period specified for operator responsibility for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection as long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by this chapter or until soil productivity for prime farm lands has returned to levels of yield equivalent to those of unmined land of the same soil type in the surrounding area under equivalent management practices as determined from soil surveys that may be required to be included in the permit application. If a sedimentation pond is to be retained as a permanent impoundment, the portion of bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the cabinet.

(c) When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, or collateral, but not before the expiration of the period specified for operator responsibility. No bond shall be fully released until all reclamation requirements of this chapter are fully met.

(5) Upon satisfying the requirements of subsections (4)(a), (b), or (c) of this section the permittee may file, or the cabinet shall initiate, an application for total or partial bond release.

(a) A permittee shall have the right to begin public advertisement of its request for bond release at the time it files its request for the release. The cabinet may undertake, at permittee expense, public advertisement of any cabinet initiated bond release. If the cabinet initiates a bond release pursuant to this subsection but chooses not to advertise the release pursuant to this section, and the permittee does not advertise the request for the release within the time schedules established by this subsection, the bond release application shall be denied. All public advertisements of bond release applications, whether authorized by the permittee or the cabinet, shall begin within sixty (60) days after either the filing of a bond release request by the permittee or the initiation of a bond release by the cabinet. Public advertisement shall occur at least once a week for four (4) successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation.

(b) The public advertisement required by this subsection shall include: the permit number and permit approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation ***and water resource replacement*** work performed, a description of the results achieved as they relate to the operator's approved reclamation plan, and the name and address of the cabinet to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted. Proof of advertisement shall be placed with the bond release application within thirty (30) days after the advertisement.

(c) Within thirty (30) days of filing of any bond release request, the permittee shall submit copies of letters which it has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. For bond releases initiated by the cabinet, the cabinet shall undertake the notification requirements set forth in this subsection.

(d) Upon the filing of an application for bond release by a permittee, or the initiation of the release by the cabinet, the cabinet shall notify, within thirty (30) days of the filing or initiation, the municipality where the surface coal mining operation is located, pursuant to regulations promulgated by the cabinet.

(6) Upon the filing of any partial or total bond release request by a permittee, the cabinet shall within thirty (30) days conduct an inspection and evaluation of the reclamation ***and water replacement*** work involved. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation ***and water supply replacement work***, whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of the pollution, and the estimated cost of abating the pollution***, diminution, or interruption***.

(7) The cabinet shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within five (5) days following receipt of proof of public advertisement as required in subsection (5)(b), or the end of the thirty (30) day public comment period, whichever is later, if no public hearing is held pursuant to subsection (10) of this section; and if there has been a public hearing held pursuant to subsection (10) of this section, within thirty (30) days thereafter.

(8) If the cabinet disapproves the application for release of the bond or portion thereof, the cabinet shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to serve the release and allowing opportunity for a public hearing. The cabinet shall not disapprove an application for release of a surety bond or a bond secured by a letter of credit as provided for under subsection (4)(a) or (b) of this section or under the partial release provisions applicable to an interim permit, or take any action to forfeit the surety bond, or bond secured by letter of credit, solely upon the permittee's failure to pay penalties or fines, if applicable reclamation requirements for the requested release have been fully met. The cabinet shall not continue to hold under the interim or permanent program remaining surety bond proceeds or the remaining bond secured by a letter of credit where a forfeiture has occurred solely as a result of a failure to pay penalties or fines, if the reclamation requirements of this chapter have been fully met.

(9) The bond liability of the permittee shall include only those actions which the permittee is obliged

to take under the permit, including completion of the reclamation plan. Actions of third parties which are beyond the control and influence of the permittee and for which the permittee is not responsible under the permit shall not be covered by the bond.

(10) Any person having a valid legal interest which might be adversely affected by release of the bond, and the responsible officer or head of any governmental agency so designated by cabinet regulations, shall have the right to file written objections to the proposed bond release with the cabinet, and to request a hearing in accordance with procedural regulations promulgated by the cabinet.

Section 8. KRS 350.421 is amended to read as follows:

(1) Nothing in this chapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation.

(2) Each ***permittee or*** operator of a surface ***or underground*** coal mine shall replace ***or restore*** the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial or other legitimate use from an underground or surface source where ***the*** [~~such~~] supply has been affected by contamination, diminution, or interruption proximately resulting from ***the*** [~~such~~] surface coal mine operation. ***Replacement water shall be provided in comparable quantity and quality in a manner which provides minimal disruption of water use and at no greater expense to the person to whom the replacement water has been provided than he would pay under similar climatic and economic pre-mining conditions if his water supply had not been affected, for as long as he continues to use the replacement water.***"; and

On page 12, line 1, delete "Section 3" and insert in lieu thereof "Section 9"; and

On page 19, line 19, delete "Section 4" and insert in lieu thereof "Section 10"; and

On page 19, after line 20, by inserting the following:

"Section 11. Not later than the end of the 90-day period beginning on the effective date of this Act, the secretary shall file with the Legislative Research Commission proposed administrative regulations implementing Sections 3 to 8 of this Act."

Floor Amendment No. 1 to **SB 3**, by Representative Wayne:

Amend printed copy of **SB 3/GA** on page 1, line 16, by deleting "***thirteen (13)***"; and

On page 1, line 16, by deleting the brackets around and strikethroughs from "fourteen (14)"; and

On page 2, line 3, by deleting "***seven (7)***" and inserting in lieu thereof "***eight (8)***"; and

On page 2, line 23, by deleting "***and***"; and

On page 2, line 25, after "***Commonwealth***" by inserting the following:

"***; and***

(h) One (1) private director representing the interests of the Kentucky State Building Trades Council"; and

On page 5, line 18, by deleting "***seven (7)***"; and

On page 5, line 18, by deleting the brackets around and strikethroughs from "eight (8)"; and

On page 6, lines 3-5, by deleting the sentence beginning with "For the" and ending with "succeed them.".

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that the following Consent Bill has been posted for passage in the Regular Orders of the Day for March 18, 1992: **HB 889**.

The Committee on Rules reported that **HB 388, HB 58, HB 533, HB 729, HB 820, HB 99, HB 517, HB 528, HB 588, HB 740, HB 776, HB 799, HB 888, HB 919, HCR 163, HJR 164, HB 7, HB 15, HB 28, HB 113** and **HB 267** have been posted for passage in the Orders of the Day for March 18, 1992.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 588**, by Representative Williams:

Amend printed copy of **HB 588** on page 1, line 14, by deleting the word "***Human***" and inserting in lieu thereof the word "***Transplantable***";

And on page 1, line 21, by deleting the word "***and***";

And on page 2, line 2, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 2, line 2, after the word "***fetal***" by inserting the word "***part***";

And on page 2, line 26, by deleting the word "***human***" and inserting in lieu therof the word "***transplantable***";

And on page 3, line 1, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 3, line 3, by deleting the word "***may***" and inserting in lieu thereof the word "***shall***";

And on page 3, line 4, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 3, line 5, by deleting the word "***may***" and inserting in lieu thereof the word "***shall***";

And on page 3, line 6, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 3, line 8, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 4, line 9, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 6, line 7, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 6, line 10, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 12, line 8, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 12, line 10, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 12, line 14, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 12, line 16, by deleting the word "***human***" and inserting 2n lieu thereof the word "***transplantable***";

And on page 12, line 18, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 12, line 21, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***";

And on page 12, line 23, by deleting the word "***human***" and inserting in lieu thereof the word "***transplantable***".

Orders of the Day (Continued)

HB 658 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richardson moved that **HB 658** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 17, 1992 roll call on **HB 658** - Appendix.)

HB 658 was passed and the title agreed to.

Representative Richardson moved that the vote by which **HB 658** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 596, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **HB 596**. Agreed.

Representative Moberly moved that **HB 596**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17, 1992 roll call on **HB 596** - Appendix.)

HB 596, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 596**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 123** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:23 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 544**, by Representative Riggs:

Amend printed copy of **HB 544/HCS** on page 1, line 7, after the word "***policyholder***" by inserting the following: "***, whose estimated standard annual premium is five thousand dollars ($5,000) or more,***"

On page 3, line 15, by deleting the word "***and***"

On page 3, line 16, by deleting the word "***approval***".

Floor Amendment No. 2 to the Committee Substitute to **HB 544**, by Representative Riggs:

Amend printed copy of **HB 544/HCS** on page 7, after line 4, by adding the following section:

"Section 7. The deductible policies authorized by Sections 1 to 4 of this Act shall be offered on policies written or renewed on or after the effective date of this Act."

Floor Amendment No. 1 to **HCR 76**, by Representative Morris:

Amend printed copy of **HCR 76** by deleting in its entirety all language following the title and inserting in lieu thereof:

"Whereas, the Governor has committed to create a task force to evaluate the operations of state government; and

Whereas, some of the recommendations of the task force will require action by the General Assembly; and

Whereas, the participation of the Auditor of Public Accounts will facilitate the work of the task force;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Governor include members of the General Assembly in the task force.

Section 2. That the task force be directed to evaluate the organizational structure and functions of the various cabinets and departments of state government.

Section 3. That the task force review the effectiveness and efficiency of the current structure of state government.

Section 4. That the task force develop performance standards that will better enable the General Assembly, the Governor, and his cabinet to measure each agency's progress in carrying out its statutory duties.

Section 5. That the Auditor of Public Accounts participate in the development of the task force's methodology and its deliberations and provide assistance to the task force in identifying areas of concern and action.

Section 6. That the task force submit its final report and recommendations to the Governor and the Legislative Research Commission prior to the 1994 General Assembly."

Floor Title Amendment to **HCR 76**, by Representative Morris:

Amend printed copy of **HCR 76** by amending the title to read as follows: "A CONCURRENT RESOLUTION encouraging the Governor to establish a Task Force to evaluate measures that are necessary to improve the economy and efficiency of state government."

Floor Amendment No. 1 to **SB 269**, by Representative Maggard:

Amend printed copy of **SB 269/GA** on page 3, line 14, by adding the following after "***police force***": "***The provisions of this Act shall not be applicable to arson investigators appointed pursuant to KRS 227.275, who shall be authorized to carry their weapons off duty.***"

Floor Amendment No. 1 to **SB 6**, by Representative Geveden:

Amend printed copy of **SB 6/GA** on page 3, after line 15, by adding the following:

"Section 2. KRS 620.250 is amended to read as follows:

(2) Each local citizen review board shall have access to ***all*** [~~any~~] information and records of the cabinet pertinent to the parents or person exercising custodial control or supervision of the child assigned to the local board for review. ***Information and records shall include, but not be limited to, case permanency plans, case progress reports, case records, and out-of-state pre-adoptive home studies.***

(2) Each local citizen review board shall have access to ***all*** [~~any~~] information and records of the court, the cabinet, and public and private child-caring facilities ***when pertinent to the child assigned to the local board for review. Information and records shall include, but not be limited to, case permanency plans, case progress reports, case records, and out-of-state preadoptive home studies*** [~~when pertinent to the child assigned to the local board for review~~].

(3) All requested information or records, or both, not already before the local citizen review board at the time of the six (6) months review shall be submitted by the agency or organization in possession of the information or records, or both, no later than five (5) working days after the receipt of the request.

(4) ***If*** [~~Should~~] the local citizen review board ***is*** [~~be~~] denied access to any public or private information or records, or both, it may request the court to hold a hearing, at which time the court may require the agency or organization in whose possession the information or records, or both, are held to show cause as to the reasons why the information or records, or both, ***shall*** [~~should~~] not be ordered surrendered pursuant to its authority.

Section 3. KRS 620.270 is amended to read as follows:

(1) The local citizen review board shall review each child committed to the cabinet who was committed from the county or counties which the board serves. The review shall occur at least once every six (6) months until the child is no longer committed to the cabinet or until an adoption proceeding becomes final.

(2) During each six (6) month review, the local citizen review board shall review:

(a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, [~~and~~] case progress reports***, and out-of-state preadoptive home studies*** submitted by the cabinet and [~~such~~] other information as the board may require;

(b) The efforts or adjustment the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;

(c) The efforts of the cabinet to locate and provide services to the biological parents of the child;

(d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and

(e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board ***determine to*** [~~may~~ ~~feel~~ ~~should~~] be explored with regard to the best interests of the state or of the child.

(3) Upon completion of a training curriculum developed and provided jointly by the Administrative Office of the Courts and by the Department for Social Services and approved by the state review board in regard to child sexual abuse, the local citizen review board may review, at the discretion of the board, a sample of all petitions filed in the District Court of the county served by the board alleging sexual abuse of any child, not to exceed two hundred (200) petitions per year statewide, in order to determine the adequacy of the investigation, and the appropriateness of findings, adjudication, and disposition of the court. The board shall have access to all records of the cabinet, medical and mental health professionals, and law enforcement agencies pertaining to these cases. The board shall provide the cabinet and the court a full report of the findings and recommendations concerning the review.

Section 4. KRS 620.320 is amended to read as follows:

The duties of the state citizen review board shall be to:

(1) Establish and approve training programs for local citizen review board members;

(2) Review and coordinate the activities of local citizen review boards;

(3) Establish reporting procedures to be followed by the local citizen review boards and to provide information on the effectiveness of such local citizen review boards; and

(4) Evaluate and make annual recommendations to the Supreme Court, Governor, and the Legislative Research Commission regarding:

(a) Laws of the Commonwealth***;*** [~~and~~]

(b) Practices, policies, and procedures within the Commonwealth affecting permanence for children in out-of-home placement ***and the investigation of allegations of abuse and neglect***; and

(c)[~~(b)~~] The effectiveness or lack thereof and reasons therefor of local citizen review of children in foster care in bringing about permanence for the Commonwealth's children.

Section 5. KRS 620.070 is amended to read as follows:

(1) A dependency, neglect, or abuse action may be commenced by the filing of a petition by any interested person in the juvenile session of the District Court.

(2) After a petition has been filed, the clerk of the court shall issue, and the sheriff or other authorized agent shall serve, a copy of the petition and a summons to the parent or other person exercising custodial control or supervision, unless their identity or location is unknown, in which case the petition and summons shall be served on the nearest known adult relative.

(3) The summons shall include an explanation of the importance of the petition and an explanation of the rights of the parent or other person exercising custodial control in any subsequent proceedings. The summons shall emphasize the importance of immediately contacting the court about legal representation and to be advised of the date, time, and place when the parent or other person exercising custodial control or supervision is to appear before the court. ***The summons shall include written notification that the case may be reviewed by a local citizen review board and the report of the board review shall become part of the court record.***

Section 6. KRS 620.190 is amended to read as follows:

(1) There shall be established within each judicial district a Foster Care Citizen Review Board to be appointed by the Chief District Judge. The Chief District Judge may authorize the creation of additional local citizen review boards as needed.

(2) Each local citizen review board shall consist of not less than three (3) [~~nor more than five (5)~~] members and shall be appointed according to the following guidelines:

(a) At least two (2) members of each local citizen review board shall be chosen from among the following professions: law, medicine, psychology, social work, and education, and shall have a demonstrated interest in foster care or child welfare. At least one (1) member shall have demonstrated interest in foster care or child welfare;

(b) All members of each local citizen review board shall, as far as practicable, be representative of the socioeconomic, racial, and ethnic composition of the area served;

(c) Employees of the cabinet shall be prohibited from serving on the local citizen review board; and

(d) [~~Of the initial appointees to each local citizen review board, the Chief District Judges shall designate one (1) member to serve a term of one (1) year, not less than one (1) nor more than two (2) members to serve a term of two (2) years, and not less than one (1) nor more than two (2) members to serve a term of three (3) years.~~] All ***appointed*** [~~subsequent~~] board members shall serve a term of three (3) years, except that if a vacancy occurs, a successor shall be appointed to serve the unexpired term. The term of each member shall expire on August ***1*** [~~first~~] of the appropriate year. Members may be reappointed and shall continue to serve until a successor is appointed.

(3) Local citizen review board members may be removed for nonparticipation or other cause.

(4) Each local citizen review board shall annually elect a chairman and vice-chairman to serve in the absence of the chairman.

(5) Each local citizen review board shall meet, at a place designated by the Chief District Judge, as often as is deemed necessary to carry out the duties of the board. The local citizen review board shall meet no less than four (4) times annually.

Section 7. The following KRS section is repealed:

620.300 Notice of completed reviews."

Floor Amendment No. 1 to **HB 7**, by Representative Long:

Amend printed copy of **HB 7** on page 5 after line 3, by adding the following:

Section 2. A NEW SECTION OF KRS CHAPTER 48 IS CREATED TO READ AS FOLLOWS:

Prior to the issuance of the revenue bonds or notes authorized by an appropriations act, the agency authorized to issue the bonds or notes shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The costs shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to issuers, underwriters, placement agents and advisors, financial advisors, remarketing agents, credit enhancers, trustees, accountants, and the counsel of all these persons, bond counsel, and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this section, shall be furnished to the Capitol Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the change.

Orders of the Day (Continued)

HB 730 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HB 730** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17, 1992 roll call on **HB 730** - Appendix.)

HB 730 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 730** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 704, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 704**. Agreed.

Representative Clarke moved that **HB 704**, as amended, be passed.

Representative Noland moved the adoption of Floor Amendment No. 1 to **HB 704**. Agreed.

Representative Clarke moved that **HB 704**, as amended, be passed.

On the roll call the vote was: Yeas 70, Nays 21. (See March 17, 1992 roll call on **HB 704** - Appendix.)

HB 704, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 704**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 748 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HB 748** be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 17, 1992 roll call on **HB 748** - Appendix.)

HB 748 was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 748** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 365, with Committee Substitute, Floor Amendments and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved the adoption of the Committee Substitute to **HB 365**. Agreed.

Representative Bentley moved that **HB 365**, by way of Committee Substitute, be passed.

Representative Arnold moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 365**. Rejected.

Representative Worthington moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 365**.

On the roll call the vote was yeas 80—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gregory, J. Harper, K. Harper, Hourigan, Jones, Keith, Kerr, Lewis, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Nunn, Overstreet, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Williams, Worthington, Zimmerman. Nays 12—Butler, Clarke, Gray, Hancock, Hatcher, Heleringer, Jensen, Lear, LeMaster, Palumbo, Riggs, Yates.

Floor Amendment No. 3 to the Committee Substitute to **HB 365** was adopted.

Representative Bentley moved that **HB 365**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 17, 1992 roll call on **HB 365** - Appendix.)

HB 365, by way of Committee Substitute as amended, was passed.

Representative Bentley moved the adoption of the Floor Title Amendment to **HB 365**. Agreed; and the title was agreed to.

Representative Bentley moved that the vote by which **HB 365**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 128**, **HB 343**, **HB 344**, **HB 377**, **HB 408**, **HB 477**, **HB 505**, **HB 606** and **HB 700** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:56 p.m.)

HB 128, **HB 343**, **HB 344**, **HB 377**, **HB 408**, **HB 477**, **HB 505**, **HB 606** and **HB 700** were delivered to the Senate and signed by the President. Delivered to the Governor on March 17, 1992 at 3:14 p.m.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 201**, by Representative R. Smith:

Amend printed copy of **HB 201/HCS** on page 5, line 23, after the word "be", delete "***exempt from***" and remove the opening bracket "[" and strike throughs from "[~~permitted~~ ~~a~~ ~~tolerance~~ ~~of~~"; and

On page 5, line 23, after the word "~~of~~" insert "***twenty percent (20%)***" and insert an opening bracket "[" before "~~ten~~"; and

On page 5, line 24, insert a closing bracket "]" after "~~10%~~" and remove the strike throughs and closing bracket from "~~of~~]"; and

On page 5, line 24, after the word "provisions" delete "***set forth in***"; and

On page 5, line 25, delete the brackets and strike throughs from "[~~before~~ ~~a~~ ~~carrier~~ ~~is~~ ~~deemed~~ ~~to~~ ~~have~~ ~~violated~~]"; and

On page 5, line 26, after the word "section", delete the remainder of the line in its entirety; and

On page 6, lines 1 and 2, delete all underlined material.

Floor Amendment No. 1 to **SB 205**, by Representative Barrows:

Amend printed copy of **SB 205/GA** on page 6, line 13, by placing a bracket before the word "Sixty" and after the parenthetical figure "(60%)", and by striking through the intervening language, and inserting before this bracketed material the following "***Fifty-five percent (55%)***";

and on line 17, by placing a bracket before the word "Thirty" and after the parenthetical figure "(30%)", and by striking through the intervening language, and inserting before this bracketed material the following "***Twenty-five percent (25%)***";

and on line 21, by placing a bracket before the word "Ten" and after the parenthetical figure "(10%)", and by striking through the intervening language, and inserting before this bracketed material the following "***Twenty percent (20%)***".

Floor Amendment No. 1 to **HB 780**, by Representative Barrows:

Amend printed copy of **HB 780** on page 2, line 5, by deleting the words "***ninety million***";

On page 2, line 6, by deleting the parenthetical figure (***90,000,000***) and by removing the brackets, before and after, and the strikethroughs through the language "one hundred million (100,000,000)".

Orders of the Day (Continued)

HB 392, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved the adoption of Floor Amendment No. 1 to **HB 392**. Agreed.

Representative Gregory moved the adoption of Committee Amendment No. 1 to **HB 392**. Agreed.

Representative Gregory moved that **HB 392**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 17, 1992 roll call on **HB 392** - Appendix.)

HB 392, as amended, was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 392**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 370, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Castleman moved the adoption of the Committee Substitute to **HB 370**. Agreed.

Representative Castleman moved that **HB 370**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17, 1992 roll call on **HB 370** - Appendix.)

HB 370, by way of Committee Substitute, was passed and the title agreed to.

Representative Castleman moved that the vote by which **HB 370**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 667, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of the Committee Substitute to **HB 667**. Agreed.

Representative Gedling moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 667**. Agreed.

Representative Gedling moved that **HB 667**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17, 1992 roll call on **HB 667** - Appendix.)

HB 667, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 667**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 697 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 697** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 17, 1992 roll call on **HB 697** - Appendix.)

HB 697 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 697** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 756 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 756** be passed.

On the roll call the vote was: Yeas 95, Nays 2. (See March 17, 1992 roll call on **HB 756** - Appendix.)

HB 756 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 756** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 707 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 707** be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See March 17, 1992 roll call on **HB 707** - Appendix.)

HB 707 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 707** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 546, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ward moved the adoption of the Committee Substitute to **HB 546**. Agreed.

Representative Ward moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 546**. Agreed.

Representative Ward moved that **HB 546**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 17, 1992 roll call on **HB 546** - Appendix.)

HB 546, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Ward moved that the vote by which **HB 546**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 631, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Committee Amendment No. 1 to **HB 631**. Agreed.

Representative Riggs moved the adoption of Committee Amendment No. 2 to **HB 631**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 1 to **HB 631**. Agreed.

Representative Riggs moved that **HB 631**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17, 1992 roll call on **HB 631** - Appendix.)

HB 631, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 631**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 677 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 677** be passed.

On the roll call the vote was: Yeas 88, Nays 1. (See March 17, 1992 roll call on **HB 677** - Appendix.)

HB 677 was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 677** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 821 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **HB 821** be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 17, 1992 roll call on **HB 821** - Appendix.)

HB 821 was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 821** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 844, with Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **HB 844** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 17, 1992 roll call on **HB 844** - Appendix.)

HB 844 was passed.

Representative Deskins moved the adoption of the Committee Title Amendment to **HB 844**. Agreed; and the title was agreed to.

Representative Deskins moved that the vote by which **HB 844**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 865 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **HB 865** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 17, 1992 roll call on **HB 865** - Appendix.)

HB 865 was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 865** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 129 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HCR 129** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17, 1992 roll call on **HCR 129** - Appendix.)

HCR 129 was adopted.

Representative Stumbo moved that the vote by which **HCR 129** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 149 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HCR 149** be adopted.

On the roll call the vote was: Yeas 98, Nays 0. (See March 17, 1992 roll call on **HCR 149** - Appendix.)

HCR 149 was adopted.

Representative Worthington moved that the vote by which **HCR 149** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 154 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HCR 154** be adopted.

On the roll call the vote was: Yeas 87, Nays 2. (See March 17, 1992 roll call on **HCR 154** - Appendix.)

HCR 154 was adopted.

Representative Arnold moved that the vote by which **HCR 154** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 166 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HCR 166** be adopted.

On the roll call the vote was: Yeas 93, Nays 0. (See March 17, 1992 roll call on **HCR 166** - Appendix.)

HCR 166 was adopted.

Representative Johnson moved that the vote by which **HCR 166** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 170 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved that **HCR 170** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17, 1992 roll call on **HCR 170** - Appendix.)

HCR 170 was adopted.

Representative Stumbo moved that the vote by which **HCR 170** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 260 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 260** be passed.

On the roll call the vote was: Yeas 84, Nays 11. (See March 17, 1992 roll call on **HB 260** - Appendix.)

HB 260 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 260** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 266 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **HB 266** be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 17, 1992 roll call on **HB 266** - Appendix.)

HB 266 was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 266** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 337 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved that **HB 337** be passed.

On the roll call the vote was: Yeas 83, Nays 4. (See March 17, 1992 roll call on **HB 337** - Appendix.)

HB 337 was passed and the title agreed to.

Representative J. Harper moved that the vote by which **HB 337** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 522 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 522** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17, 1992 roll call on **HB 522** - Appendix.)

HB 522 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 522** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 625 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **HB 625** be passed.

On the roll call the vote was: Yeas 60, Nays 25. (See March 17, 1992 roll call on **HB 625** - Appendix.)

HB 625 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 625** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 650 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved that **HB 650** be passed.

On the roll call the vote was: Yeas 82, Nays 5. (See March 17, 1992 roll call on **HB 650** - Appendix.)

HB 650 was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 650** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 679, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sanders moved the adoption of Floor Amendment No. 1 to **HB 679**. Agreed.

Representative Sanders moved that **HB 679**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 17, 1992 roll call on **HB 679** - Appendix.)

HB 679, as amended, was passed and the title agreed to.

Representative Sanders moved that the vote by which **HB 679**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 750 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 750** be passed.

On the roll call the vote was: Yeas 88, Nays 3. (See March 17, 1992 roll call on **HB 750** - Appendix.)

HB 750 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 750** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 808, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of Committee Amendment No. 1 to **HB 808**. Agreed.

Representative Ridley moved that **HB 808**, as amended, be passed.

On the roll call the vote was: Yeas 68, Nays 26. (See March 17, 1992 roll call on **HB 808** - Appendix.)

HB 808, as amended, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 808**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 871 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 871** be passed.

On the roll call the vote was: Yeas 84, Nays 2. (See March 17, 1992 roll call on **HB 871** - Appendix.)

HB 871 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 871** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 882, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of the Committee Substitute to **HB 882**. Agreed.

Representative B. Smith moved that **HB 882**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 0. (See March 17, 1992 roll call on **HB 882** - Appendix.)

HB 882, by way of Committee Substitute, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 882**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 193, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 193**. Agreed.

Representative Geveden moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 193**. Agreed.

Representative Geveden moved that **HB 193**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See March 17, 1992 roll call on **HB 193** - Appendix.)

HB 193, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 193**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 444, with Committee Substitute and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **HB 444**. Agreed.

Representative Lewis moved that **HB 444**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17, 1992 roll call on **HB 444** - Appendix.)

HB 444, by way of Committee Substitute, was passed.

Representative Lewis moved the adoption of the Committee Title Amendment to **HB 444**. Agreed; and the title was agreed to.

Representative Lewis moved that the vote by which **HB 444**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 447, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of the Committee Substitute to **HB 447**. Agreed.

Representative Heleringer moved that **HB 447**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 17, 1992 roll call on **HB 447** - Appendix.)

HB 447, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 447**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 581, with Committee Substitute, Title Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Maggard moved the adoption of the Committee Substitute to **HB 581**. Agreed.

Representative Maggard moved that **HB 581**, by way of Committee Substitute, be passed.

Representative Deskins moved the adoption of Floor Amendment No. 1 to **HB 581**.

The Speaker ruled that Floor Amendment No. 1 to **HB 581** was out of order.

On the roll call on the passage of **HB 581**, by way of Committee Substitute, the vote was: Yeas 83, Nays 5. (See March 17, 1992 roll call on **HB 581** - Appendix.)

HB 581, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 581**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 758 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Smith moved that **HB 758** be passed.

On the roll call the vote was: Yeas 88, Nays 4. (See March 17, 1992 roll call on **HB 758** - Appendix.)

HB 758 was passed and the title agreed to.

Representative T. Smith moved that the vote by which **HB 758** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 737, with Floor Amendment and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 1 to **HB 737**. Agreed.

Representative K. Harper moved that **HB 737**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 17, 1992 roll call on **HB 737** - Appendix.)

HB 737, as amended, was passed.

Representative K. Harper moved the adoption of the Floor Title Amendment to **HB 737**. Agreed; and the title was agreed to.

Representative K. Harper moved that the vote by which **HB 737**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 533**, by Representative Lear:

Amend printed copy of **HB 533** on page 11, line 8, by placing an underlined period after "***inmates***" and deleting "***and at a cost that provides the state***"; and

On page 11, by deleting lines 9 through 12 in their entirety.

Floor Title Amendment to **HB 7**, by Representative Long:

Amend printed copy of **HB 7** by amending the title to read as follows: "AN ACT relating to the creation of debt."

Orders of the Day (Continued)

HB 778 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved that **HB 778** be passed.

On the roll call the vote was: Yeas 52, Nays 23. (See March 17, 1992 roll call on **HB 778** - Appendix.)

HB 778 was passed and the title agreed to.

Representative Hatcher moved that the vote by which **HB 778** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 861, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 861**. Agreed.

Representative Worthington moved that **HB 861**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 2. (See March 17, 1992 roll call on **HB 861** - Appendix.)

HB 861, as amended, was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 861**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 905 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cyrus moved that **HB 905** be passed.

On the roll call the vote was: Yeas 81, Nays 6. (See March 17, 1992 roll call on **HB 905** - Appendix.)

HB 905 was passed and the title agreed to.

Representative Cyrus moved that the vote by which **HB 905** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 602 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Butler moved that **HB 602** be passed.

On the roll call the vote was: Yeas 76, Nays 6. (See March 17, 1992 roll call on **HB 602** - Appendix.)

HB 602 was passed and the title agreed to.

Representative Butler moved that the vote by which **HB 602** was passed be reconsidered and said motion be placed on the table. Agreed.

The Speaker Pro Tempore assumed the Chair.

HB 603, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Butler moved the adoption of the Committee Substitute to **HB 603**. Agreed.

Representative Butler moved that **HB 603**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 17, 1992 roll call on **HB 603** - Appendix.)

HB 603, by way of Committee Substitute, was passed and the title agreed to.

Representative Butler moved that the vote by which **HB 603**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 926, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 926** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 17, 1992 roll call on **HB 926** - Appendix.)

HB 926 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 926** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 731, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of Committee Amendment No. 1 to **HB 731**. Agreed.

Representative Adkins moved that **HB 731**, as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 5. (See March 17, 1992 roll call on **HB 731** - Appendix.)

HB 731, as amended, was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 731**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 708, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of the Committee Substitute to **HB 708**. Agreed.

Representative Ridley moved that **HB 708**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 17, 1992 roll call on **HB 708** - Appendix.)

HB 708, by way of Committee Substitute, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 708**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 822, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walker moved the adoption of Committee Amendment No. 1 to **HB 822**. Agreed.

Representative Walker moved that **HB 822**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 17, 1992 roll call on **HB 822** - Appendix.)

HB 822, as amended, was passed and the title agreed to.

Representative Walker moved that the vote by which **HB 822**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to **HB 729**, by Representative Strong:

Amend printed copy of **HB 729** on page 2, line 20, after "the" by inserting "***main stem of the***" and after "River" by placing brackets around and striking through "or its tributaries"; and

On page 5, after line 5, by adding the following:

"Section 3. KRS 151.730 is amended to read as follows:

(1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of its revenue bonds for the purpose of paying all or any part of the cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The principal of and the interest on ***the*** [~~such~~] bonds shall in each instance be payable solely from a special fund provided for ***the*** [~~such~~] payment, with revenues derived from

fees collected from all facilities using water from the ***main stem of the*** Kentucky River [~~or its tributaries~~], except those facilities using water primarily for agricultural purposes, pledged to be set aside and deposited in ***the*** [~~such~~] special fund. The bonds of any issue may be in one (1) or more series and any one (1) or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest, shall mature at such time or times not exceeding the thirtieth (30th) anniversary of their respective dates, all as may be provided by the authority, and may be made redeemable before maturity, at the option of the authority, at such price or prices and under such terms and conditions as may be fixed by the authority prior to the issuance of the bonds. The authority shall determine the form of bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the authority, and the seal of the authority or a facsimile thereof shall be affixed thereto and attested by the manual signature of the treasurer of the authority, and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this section shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the uniform commercial code of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The authority may sell such bonds at public sale, and for such price as it may determine will best effect the purposes of KRS 151.720.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such a manner and under such restrictions, if any, as the authority may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the authority shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(4) The authority may issue revenue bond anticipation notes.

(5) Any holder of bonds issued under the provisions of this section or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent of the rights given in this section, may be restricted by such trust indenture or proceedings, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this section or under such trust indenture or the proceedings authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this section or by such trust indenture or proceedings to be performed by the authority or by any officer or employee thereof.

(6) Revenue bonds issued under the provisions of this section shall not be a debt, liability, or obligation of the Commonwealth or any political subdivision thereof and shall not be a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

(7) Revenue bonds issued by the authority shall not be subject to the jurisdiction or approval of the State Property and Buildings Commission or the Industrial Revenue Bond Oversight Committee but shall be subject to review by the Division of Investment and Debt Management.

(8) The authority shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality or other governmental subdivision of the Commonwealth upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this section, or upon any moneys, funds, revenues or other income held or received by the authority and the bonds or notes of the authority and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers.

(9) Contractual expenses to construct, reconstruct, provide for the major maintenance, or repair the Kentucky River locks and dams, or to maintain the channel, or to acquire real or personal property pertaining thereto, or to construct, reconstruct, maintain, or repair such property, shall be paid from the proceeds of the revenue bonds. Expenses for administrative services provided to the authority by the Natural Resources and Environmental Protection Cabinet, necessary travel expenses and per diem compensation of authority members, shall not be paid from the proceeds of the revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the proceeds of the revenue bonds."; and

By renumbering the remaining sections accordingly.

Orders of the Day (Continued)

HB 839, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of Committee Amendment No. 1 to **HB 839**. Agreed.

Representative McElroy moved that **HB 839**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 5. (See March 17, 1992 roll call on **HB 839** - Appendix.)

HB 839, as amended, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 839**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 877, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of the Committee Substitute to **HB 877**. Agreed.

Representative Collins moved that **HB 877**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 60, Nays 22. (See March 17, 1992 roll call on **HB 877** - Appendix.)

HB 877, by way of Committee Substitute, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 877**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 900 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 900** be passed.

The Speaker resumed the Chair.

On the roll call the vote was: Yeas 87, Nays 0. (See March 17, 1992 roll call on **HB 900** - Appendix.)

HB 900 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 900** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 456, with Committee Substitutes and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of the Committee Substitute No. 2 to **HB 456**. Agreed.

Representative Scorsone moved the adoption of Floor Amendment No. 10 to the Committee Substitute No. 2 to **HB 456**. Agreed.

Representative Scorsone moved that **HB 456**, by way of Committee Substitute as amended, be passed.

Representative Donnermeyer moved the adoption of Floor Amendment No. 4 to the Committee Substitute No. 2 to **HB 456**. Agreed.

Representative Donnermeyer moved the adoption of Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 456**.

On the roll call the vote was yeas 44—Ackerson, Adkins, Allen, Altman, Ballard, Bronger, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Donnermeyer, Farley, Ford, Gedling, Gee, Hancock, J. Harper, K. Harper, Heleringer, Jensen, Johnson, Kerr, Lile, Lyne, Maggard, Napier, Noland, Rapier, Ravenscraft, Reinhardt, Riner, Sanders, Sheehan, Strong, Toby, Todd, Turner, Walker, Williams, Worthington, Yates. Nays 47—Ark, Arnold, Barrows, Bowling, Brown, Bruce, Clarke, Coleman, Crupper, Curd, Cyrus, Deskins, Farrow, Freibert, Geveden, Gray, Gregory, Hatcher, Jones, Keith, Lear, LeMaster, Lewis, Little, Long, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Noe, Nunn, Overstreet, Palumbo, Pritchett, Richards, Ridley, Riggs, Scorsone, B. Smith, R. Smith, Stokes, Stumbo, Ward, Zimmerman.

Floor Amendment No. 2 to the Committee Substitute No. 2 to **HB 456** was rejected.

Representative Donnermeyer moved the adoption of Floor Amendment No. 3 to the Committee Substitute No. 2 to **HB 456**. Rejected.

Representative Donnermeyer moved the adoption of Floor Amendment No. 5 to the Committee Substitute No. 2 to **HB 456**. Rejected.

Representative Williams moved the adoption of Floor Amendment No. 11 to the Committee Substitute No. 2 to **HB 456**.

On the roll call the vote was yeas 42—Ackerson, Allen, Altman, Ballard, Bryant, Callahan, Casebier, P. Clark, Crupper, Donnermeyer, Farley, Ford, Gedling, Gee, Gray, Hancock, J. Harper, K. Harper, Jensen, Johnson, Kerr, Lile, Lyne, Maggard, Napier, Noland, Nunn, Rapier, Richards, Riggs, Riner, Sanders, Sheehan, B. Smith, R. Smith, Strong, Todd, Turner, Walker, Williams, Yates, Zimmerman. Nays 37—Ark, Arnold, Barrows, Bowling, Bronger, Brown, Bruce, Burch, L. Clark, Clarke, Coleman, Curd, Cyrus, Deskins, Farrow, Freibert, Geveden, Gregory, Jones, Lear, LeMaster, Little, Long, Mack, Mason, McElroy, Moberly, Morris, Noe, Overstreet, Palumbo, Pritchett, Ridley, Scorsone, Stokes, Stumbo, Ward.

Floor Amendment No. 11 to the Committee Substitute No. 2 to **HB 456** was adopted.

On the roll call on the passage of **HB 456**, by way of Committee Substitute No. 2, the vote was: Yeas 37, Nays 59. (See March 17, 1992 roll call on **HB 456** - Appendix.)

HB 456, by way of Committee Substitute No. 2, was defeated.

Representative Donnermeyer moved that the vote by which **HB 456**, by way of Committee Substitute No. 2, was defeated be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement be waived on **SB 260**, **SB 420**, **SB 110** and **SB 215**. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration, and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 222, by Representative Ford: A RESOLUTION recognizing the song "Kentucky," and honoring Karl Davis and the Osborne Brothers.

HR 223, by Representative Richardson: A RESOLUTION honoring the Youth Leadership Winchester.

HR 224, by Representatives Scorsone, LeMaster, Mack, Palumbo, Freibert and Lear: A RESOLUTION adjourning in honor of the University of Kentucky Wildcat basketball team and their coach, Rick Pitino.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 785, HB 827**

Health and Welfare: **SB 306**

Natural Resources and Environmental Protection: **HB 741, SB 330**

Elections and Constitutional Amendments: **HB 10, HB 355, HB 923**

Banking and Insurance: **SB 291, HB 754**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 39, HB 242, HB 291**, with Committee Amendment attached thereto, **HB 609, HB 866, HB 896, HB 943**, with Committee Amendment attached thereto, **SB 80**, with Committee Amendment attached thereto, **SB 116, SB 160**, with Committee Amendment attached thereto, **SB 187, SB 202** and **SB 210**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 39, AN ACT relating to courts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 29A.170 is amended to read as follows:

(1) All jurors in Circuit and District Court shall be paid ***seventeen dollars and fifty cents ($17.50)*** [~~five dollars ($5.00)~~] per day for jury service. In addition thereto, they shall be paid seven dollars and fifty cents ($7.50) per day as ***provided in KRS 32.070 as*** reimbursement of expenses incurred, which sum is hereby determined to be the equivalent of the minimum daily expenses reasonably to be incurred by such juror.

(2) Persons who appear in court in response to a summons for jury duty and who are not relieved from jury service shall receive full compensation for each day they are required to be and are in attendance, even though they are not sworn or accepted for jury service.

Section 2. KRS 23A.205 is amended to read as follows:

(1) Court costs for a criminal case in the Circuit Court shall be ***fifty-seven dollars ($57)*** [~~fifty-five dollars ($55)~~].

(2) Taxation of costs against a defendant, upon conviction, may be probated or suspended at the discretion of the court.

(3) Additional fees shall be charged in Circuit Court criminal matters as follows:

(a)	Preparing a certification	$1.00
(b)	Preparing a copy of a document (per page)	$ .15

(4) The additional fees required by subsection (3) of this section shall be paid to the clerk at the time the service is requested.

(5) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the administrative office of the courts the amounts paid to the sheriff.

Section 3. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the district court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law .... ***$47.50*** [~~$42.00~~]

(b) For an offense for which prepayment is not permitted or has not been made . . . . . . ***$52.50*** [~~$47.00~~]

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation . . . . $ .50

(b) Preparing a certification $1.00

(c) Preparing a copy of a document (per page) . . . . $ .25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to a drivers' improvement program as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5.00) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the administrative office of the courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10.00) from each court cost collected pursuant to subsection (1) of this section to the State Treasury for the benefit and use of the Kentucky local correctional facilities construction authority pursuant to KRS 441.625 to 441.695.

(7) The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the administrative office of the courts the amounts paid to the sheriff.

HB 242, AN ACT relating to the expungement of criminal records.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Any person who has been convicted of a misdemeanor or a violation, or a series of misdemeanors or violations arising from a single incident, may petition the court in which he was convicted for expungement of his misdemeanor or violation record. The person shall be informed of the right at the time of adjudication.

(2) The petition shall be filed no sooner than five (5) years after the completion of the person's sentence or five (5) years after the successful completion of the person's probation, whichever occurs later.

(3) Upon the filing of a petition, the court shall set a date for a hearing and shall notify the county attorney; the victim of the crime, if there was an identified victim; and any other person whom the person filing the petition has reason to believe may have relevant information related to the expungement of the record. Inability to locate the victim shall not delay the proceedings in the case or preclude the holding of a hearing or the issuance of an order of expungement.

(4) The court shall order sealed all records in the custody of the court and any records in the custody of any other agency or official, including law enforcement records, if at the hearing the court finds that:

(a) The offense was not a sex offense or an offense committed against a child;

(b) The person had no previous felony conviction;

(c) The person had not been convicted of any other misdemeanor or violation offense in the five (5) years prior to the conviction sought to be expunged;

(d) The person had not since the time of the conviction sought to be expunged been convicted of a felony, a misdemeanor, or a violation;

(e) No proceeding concerning a felony, misdemeanor, or violation is pending or being instituted against him; and

(f) The offense was an offense against the Commonwealth of Kentucky.

(5) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred; all index references shall be deleted; the persons and the court may properly reply that no record exists with respect to the persons upon any inquiry in the matter; and the person whose record is expunged shall not have to disclose the fact of the record or any matter relating thereto on an application for employment, credit, or other type of application.

(6) Copies of the order shall be sent to each agency or official named therein.

(7) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of the records and only to those persons named in the petition.

(8) This section shall be deemed to be retroactive, and any person who has been convicted of a misdemeanor prior to the effective date of this Act may petition the court in which he was convicted, or if he was convicted prior to the inception of the District Court to the District Court in the county where he now resides, for expungement of the record of one (1) misdemeanor offense or violation or a series of misdemeanor offenses or violations arising from a single incident, provided that the offense was not one specified in subsection (4) and that the offense was not the precursor offense of a felony offense for which he was subsequently convicted. This section shall apply only to offenses against the Commonwealth of Kentucky.

HB 291, AN ACT relating to criminal trespass.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 511.060 is amended to read as follows:

(1) A person is guilty of criminal trespass in the first degree when he knowingly enters or remains unlawfully in a dwelling.

(2) Criminal trespass in the first degree is a Class ***D felony*** [~~A misdemeanor~~].

Section 2. KRS 511.070 is amended to read as follows:

(1) A person is guilty of criminal trespass in the second degree when he knowingly***:***

(a) Enters or remains unlawfully in a building; or

(b) Enters or remains unlawfully upon premises as to which notice against trespass is given by fencing or other enclosure; or

(c) Enters or remains unlawfully upon premises, whether or not notice against trespass is given by fencing or by signs, from a river, stream, or other watercourse

[~~enters or remains unlawfully in a building or upon premises as to which notice against trespass is given by fencing or other enclosure~~].

(2) Criminal trespass in the second degree is a Class ***A*** [~~B~~] misdemeanor.

Section 3. KRS 511.090 is amended to read as follows:

(1) A person "enters or remains unlawfully" in or upon premises when he is not privileged or licensed to do so.

(2) A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license or privilege unless he defies a lawful order not to enter or remain personally communicated to him by the owner of such premises or other authorized person.

(3) A license or privilege to enter or remain in or upon premises which are only partly open to the public is not a license or privilege to enter or remain in or upon a part of the premises which is not open to the public.

(4) ***Except as provided in Section 2 of this Act*** a person who enters or remains upon unimproved and apparently unused land which is neither fenced nor otherwise enclosed does not commit criminal trespass unless notice against trespass is personally communicated to him by the owner of the land or some other authorized person or unless notice is given by posting in a conspicuous manner.

The Committee Amendment No. 1 to **HB 291** is as follows:

Amend printed copy of **HB 291** on page 1, lines 1 to 6, to delete the same;

and on page 1, line 7 to delete "2." and to insert "1.";

and on page 1, line 21, to delete "***A***" and to delete the brackets "□" and strike through of "B";

and on page 2, line 1, to delete "3." and to insert "2.";

and on page 2, line 15, to delete "***2***" and to insert "***1***".

HB 609, AN ACT relating to power of attorney.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 386.093 is amended to read as follows:

When a principal designates another his attorney in fact or agent by a power of attorney in writing and the writing contains the words "This power of attorney shall not be affected by the disability of the principal," or "This power of attorney shall become effective upon the disability of the principal," or similar words showing the intent of the principal that the authority conferred shall be exercisable notwithstanding his disability, then the authority of the attorney in fact or agent is exercisable by him as provided in the power on behalf of the principal notwithstanding later disability or incapacity of the principal at law or later uncertainty as to whether the principal is dead or alive. All acts done by the attorney in fact or agent, pursuant to the power during any period of disability or incompetence or uncertainty as to whether the principal is dead or alive, have the same effect and inure to the benefit of and bind the principal or his heirs, devisees, and personal representative as if the principal were alive, competent, and not disabled. ***An attorney in fact shall not be deemed a fiduciary, as defined in KRS 386.010, unless the writing expressly provides that "The attorney in fact shall be deemed a fiduciary," or similar words showing the intent of the principal that the attorney in fact be held to a fiduciary standard of care.*** If a fiduciary is thereafter appointed by the court for the principal, the power of the attorney in fact shall thereupon terminate and he shall account to the court's appointed fiduciary.

HB 866, AN ACT relating to civil rights.

WHEREAS, Kentucky Revised Statutes Chapter 344 was enacted, in part, to provide for execution within the Commonwealth of the policies embodied in the Federal Civil Rights Act of 1964, as amended (78 Stat. 241); Title VIII of the Federal Civil Rights Act of 1968 (82 Stat. 81); and the Federal Age Discrimination in Employment Act of 1967 (81 Stat. 602); and

WHEREAS, the 1976 Equal Opportunities Act, KRS 207.130 to 207.260, was enacted, in part, to provide for execution within the state of the policies embodied in Section 504 of Public Law No. 93-112, the Rehabilitation Act of 1973; and

WHEREAS, The United States Congress has enacted the Civil Rights Act of 1991, effectuating certain changes in the federal law; and

WHEREAS, it is desirable and necessary for the equal and consistent administration of justice that the federal and state statutes remain substantially the same in purpose and effect;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

(1) A civil action brought pursuant to KRS Chapter 344; or the 1976 Equal Opportunities Act, KRS 207.130 to 207.260; or any city or county ordinance, order, or resolution adopted and enforced thereunder, shall be commenced:

(a) Within one hundred eighty (180) days after the alleged unlawful practice occurs; or

(b) If a charge or complaint has been timely filed with any federal, state, or local agency with authority to grant or seek relief from illegal discriminatory practices, within ninety (90) days of receipt of notice from the agency with which the charge or complaint was filed that the agency has dismissed the charge or complaint or that the proceedings of the agency are otherwise terminated.

(2) This section shall not be applicable to any civil actions commenced prior to the effective date of this Act.

HB 896, AN ACT relating to independent adoptions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Secretary" means the secretary for human resources;

(2) "Cabinet" means the Cabinet for Human Resources;

(3) "Department" means the Department for Social Services;

(4) "Child" means any person who has not reached his eighteenth birthday;

(5) "Adult adopted person" means any adopted person who is twenty-one (21) years of age or older;

(6) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency other than a state agency which supervises the placement of children in foster family homes or child-caring facilities, or which places children for adoption;

(8) ***"Agency adoption worker"*** [~~"Child welfare worker"~~] means an employee of the cabinet designated as such by the secretary for human resources, ***a*** [~~or~~] social worker employed by a county or city who has been approved by the cabinet to handle, under its supervision, ***adoption placement*** services to children***, or a social worker employed by a licensed child-placing adoption agency***;

(9) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or of a licensed child-placing agency;

(10) "Group home" means a homelike facility for not more than eight (8) foster children, not adjacent to or part of an institutional campus, operated by a sponsoring agency for children who may participate in community activities and use community resources;

(11) "Institution" means a child-caring facility providing care or maintenance for nine (9) or more children; [~~and~~]

(12) "Family rehabilitation home" means a child-caring facility for appropriate families and comprising not more than twelve (12) children and two (2) staff persons***;***

(13) "Legal services" means those services rendered by an attorney in an adoption proceeding, limited to client consultation and legal advice, document and case preparation, courtroom presentation, legal consultation with the Cabinet for Human Resources and Interstate agencies, and the obtainment of consent of the biological parents. Legal services does not include any services normally performed by a licensed child placing agency or the bringing together of prospective adoptive parents and the child to be adopted or the biological parents of the child to be adopted; and

(14) "Placement services" means those social services customarily provided by a licensed child-placing or a public agency which are necessary for the arrangement and placement of children in foster family homes, child-placing facilities, or adoptive homes. Placement services are provided through a licensed child-placing or a public agency for children who cannot be cared for by their birth parents and who need and can benefit from new and permanent family ties established through legal adoption. Licensed child-placing agencies and public agencies have a responsibility to act in the best interests of children, birth parents, and adoptive parents by providing social services to all the parties involved in an adoption.

Section 2. KRS 199.470 is amended to read as follows:

(1) Any person who is eighteen (18) years of age and who is a resident of this state or who has resided in this state for twelve (12) months next before filing may file a petition for leave to adopt a child in the Circuit Court of the county in which the petitioner resides.

(2) If the petitioner is married, the husband or wife ***shall*** [~~must~~] join in a petition for leave to adopt a child unless the petitioner is married to a biological parent of the child to be adopted, except that if the court finds the requirement of a joint petition would serve to deny the child a suitable home, such requirement may be waived.

(3) No petition for the adoption of any child under the age of sixteen (16) shall be filed until after the child has lived continuously in the home of the petitioner for at least three (3) months immediately prior to the filing of the petition unless the child has been placed for adoption by the cabinet or an agency licensed to place children for adoption by the cabinet. In the case of a child placed for adoption by the cabinet or an agency licensed by the cabinet, the petition may be filed at the time of placement.

(4) No petition for adoption shall be filed unless prior to the filing of the petition the child sought to be adopted has been placed for adoption by a licensed child-placing institution or agency, or by the cabinet, or the child has been placed with written approval of the secretary; but no [~~such~~] approval shall be necessary in the case of:

(a) A child sought to be adopted by a stepparent, grandparent, sister, brother, aunt or uncle; or

(b) A child received by the proposed adopting parent or parents from an agency without this state with the written consent of the secretary.

(5) Subsection (4) of this section shall not apply to those children placed for adoption prior to June 14, 1962.

(6) No petition for adoption for a child who does not fall within the exception provided for in subsections (4) or (5) of this section shall be filed until after the child has lived continuously in the home of the petitioner for at least three (3) months subsequent to the written approval of the secretary for the placement of the child.

Section 3. KRS 199.473 is amended to read as follows:

(1) All persons other than a licensed child-placing agency or institution, the department, or persons excepted by KRS 199.470(4) or (5) who wish to place or receive a child shall make written application to the secretary for permission to place or receive a child. Upon receipt of an application to place or receive a child, together with the fee required pursuant to subsection (5) of this section, the secretary shall cause an investigation to be made of the home and the background of the person or persons wishing to receive the child. The purpose of the investigation shall be to determine the suitability of the applicants to receive a child, taking into account at all times the best interest of the child for whom application to receive has been made. The ***agency adoption*** [~~child welfare~~] worker making the investigation shall make a finding in writing recommending either that the application be granted or that the application be denied. In either case, reasons for the ***agency adoption*** [~~child welfare~~] worker's recommendation shall be given in writing. The recommendation of the ***agency adoption*** [~~child welfare~~] worker shall then be reviewed by the secretary. Based on the report and recommendation of the ***agency adoption*** [~~child welfare~~] worker making the investigation, the secretary shall grant or refuse permission for the applicant to place or receive a child as early as practicable, but, in any case, the decision shall be made within sixty (60) days after the receipt of the application. In reaching his decision, the secretary shall be guided by the ability of the persons wishing to receive the child to give the child a suitable home, and shall at all times consider the best interest of the child from a financial, medical, psychological, and psychiatric standpoint. If the application is refused, the secretary shall in general terms furnish in writing the reasons for his refusal.

(2) ***Upon a finding by the Circuit Court that it is necessary that the child be placed prior to the secretary's ruling on the application, the Circuit Court may grant the applicant temporary custody of the child pending the decision of the secretary. If the application is denied, the temporary custody shall be automatically terminated and upon motion of the cabinet or of the child's parent, the Circuit Court may order the child be returned to the biological parent or the child's custody awarded to the cabinet or other licensed child-placing agency.***

(3) In any case where the cabinet refuses to approve the placement of a child for adoption when requested by the parent or parents of the child, or refuses the request of any person or persons that a child be placed with him or them for adoption, the decision of the secretary in so refusing shall be final unless within ten (10) days after notice of refusal, the biological or proposed adopting parent or parents shall appeal to the Circuit Court of the county in which the adoption is proposed. No placement shall be disapproved on the basis of the religious, ethnic, racial, or inter faith background of the adoptive applicant, if the placement is made with the consent of the parent. ***The cabinet may refuse to approve the placement of a child for adoption if the child's custodial parent is unwilling for the child to be placed for adoption with the proposed adoptive family.*** The cabinet shall be made a party defendant to the appeal. In the hearing of an appeal, the court shall review the findings of the secretary and shall determine if the secretary has acted arbitrarily, unlawfully, or in such a manner as to constitute an abuse of discretion.

[~~(3) No person, association, or organization, other than the cabinet or a licensed child-placing institution or agency shall place a child or act as intermediary in the placement of a child for adoption or otherwise, except in the home of a stepparent, grandparent, sister, brother, aunt, or uncle, or upon written approval of the secretary. Nothing in this subsection shall be construed to limit the Cabinet for Human Resources in carrying out its Aid to Dependent Children Program in accordance with KRS Chapter 205.~~]

(4) If a child who does not fall within the exception provided for in KRS 199.470(4) or (5) is placed or received in a home without the permission of the secretary for human resources, or if permission to receive a child has been denied, a representative of the cabinet may petition the juvenile session of District Court of the county in which the child is found setting out the facts concerning the child. When the petition has been filed, the court shall take jurisdiction of the child and shall provide for it as it would provide for a dependent, neglected, or abused child under KRS Chapter 620, except that the child may not be placed in the home of the applicants to receive him unless permission to do so is granted by the secretary or the action is ordered by a Circuit Court, the Kentucky Court of Appeals or Supreme Court of Kentucky.

(5) ***When either the parent or parents of the child to be placed or the persons wishing to receive the child reside out-of-state, the requirement of KRS 615.030, Interstate Compact on the Placement of Children, shall be met prior to the cabinet giving approval for the child's placement.***

(6) The secretary of the Cabinet for Human Resources shall be paid a nonrefundable fee of one hundred fifty dollars ($150) upon the filing of the written application for permission to place or receive a child. Payment shall be made by certified or cashier's check only. All funds collected under this section shall be deposited in a restricted account, which is hereby created, for the purpose of subsidizing an adoptive parent for suitable care of a special needs child as authorized in KRS 199.555.

(7)[~~(6)~~] Nothing in this statute shall be construed to limit the authority of the cabinet or a licensed child-placing institution or agency to determine the proper disposition of a child committed to it by the juvenile session of District Court or the Circuit Court, prior to the filing of an application to place or receive.

Section 4. KRS 199.480 is amended to read as follows:

(1) The following persons shall be made parties defendant in an action for leave to adopt a child:

(a) The child to be adopted;

(b) The biological living parents of a child under eighteen (18), if the child is born in lawful wedlock, and its mother and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, if the child is born out of wedlock, provided that no biological parent need be made a party defendant in the event the parental rights of ***a putative father have not been established as required by KRS 625.065 or the parental rights of the biological*** [~~such~~] parent have been terminated under KRS Chapter 625, or under a comparable statute of another jurisdiction;

(c) The child's guardian, if it has one; and

(d) If the care, custody and control of the child has been transferred to the cabinet, any other individual, institution or agency, then the cabinet, ***the*** [~~such~~] other individual, institution or agency shall be named a party defendant.

(2) Each party defendant shall be brought before the court in the same manner as provided in other civil cases except that if the child to be adopted is under fourteen (14) years of age and the cabinet, individual, institution or agency has custody of ***the*** [~~such~~] child, the service of process upon ***the*** [~~such~~] child shall be had by serving a copy of the summons in ***the*** [~~such~~] action upon the cabinet, individual, institution or agency, any provision of CR 4.04(3) to the contrary notwithstanding.

(3) If the child's biological living parents, if the child is born in lawful wedlock, or if the child is born out of wedlock, its mother and if paternity is established in legal action or if an affidavit is filed stating that the affiant is father of the child, its father, are parties defendant, no guardian ad litem need be appointed to represent the child to be adopted.

Section 5. KRS 199.490 is amended to read as follows:

(1) The petition shall allege:

(a) The name, date and place of birth, place of residence and mailing address of each petitioner, and if married, the date and place of their marriage;

(b) The name, date and place of birth, place of residence and mailing address, if known, of the child sought to be adopted;

(c) Relationship, if any, of the child to each petitioner;

(d) Full name by which the child shall be known after adoption;

(e) A full description of the property, if any, of the child so far as it be known to the petitioner;

(f) The names of the parents of the child and the address of each living parent, if known, provided the name of the biological father of a child born out of wedlock shall not be given unless paternity is established in a legal action, or unless an affidavit is filed stating that the affiant is the father of the child, or if certified copies of orders terminating parental rights are filed as provided in subsection (2) of this section, the name of any parent whose rights have been terminated shall not be given;

(g) The name and address of the child's guardian, if any, or of the cabinet, institution or agency having legal custody of the child;

(h) Any further facts necessary for the location of the person or persons whose consent to the adoption is required, or whom KRS 199.480 requires to be made a party to or notified of the proceeding; and

(i) If any fact herein required to be alleged is unknown to the petitioners, such lack of knowledge must be alleged.

(2) There shall be filed with the petition certified copies of any orders terminating parental rights. Any consent to adoption shall be filed prior to the entry of the adoption judgment.

(3) If the petitioner was not excepted by KRS 199.470(4) or (5), a copy of the written approval of the Secretary of the Cabinet for Human Resources or the secretary's designee shall be filed with the petition.

Section 6. KRS 199.500 is amended to read as follows:

(1) No adoption shall be granted without the sworn consent of the living parent or parents of a child born in lawful wedlock or the mother of the child born out of wedlock, or the father of the child born out of wedlock if paternity is established in a legal action or if an affidavit is filed stating that the affiant is the father of the child, except that ***the*** [~~such~~] consent of the living parent or parents shall not be required if:

(a) ***The*** [~~Such~~] parent or parents have been adjudged mentally disabled and ***the*** [~~such~~] judgment shall have been in effect for not less than one (1) year prior to the filing of the petition for adoption;

(b) The parental rights of ***the*** [~~such~~] parents have been terminated under KRS Chapter 625; [~~or~~]

(c) The living parents are divorced and the parental rights of one (1) parent have been terminated under KRS Chapter 625 and consent has been given by the parent having custody and control of the child***; or***

(d) The biological parent has not established parental rights as required by KRS 625.065.

(2) A minor parent who is a party defendant may consent to an adoption but a guardian ad litem for ***the*** [~~such~~] parent shall be appointed.

(3) In the case of a child twelve (12) years of age or older, the consent of the child shall be given in court, provided that the court in its discretion may waive this requirement.

(4) [~~Notwithstanding the provisions of subsection (1) of this section, an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as a part of the adoption proceedings that any of the provisions of KRS 625.090 exist with respect to such child.~~

~~(5)~~] In no case shall an adoption be granted or a consent for adoption be held valid if ***the*** [~~such~~] consent for adoption is given prior to the fifth day after the birth of the child.

Section 7. KRS 199.590 is amended to read as follows:

(1) No person, corporation or association shall advertise in any manner that it will receive children for the purpose of adoption nor shall any newspaper published in the Commonwealth of Kentucky nor any other publication which is prepared, sold, or distributed in the Commonwealth of Kentucky contain an advertisement which solicits children for adoption or solicits the custody of children.

(2) No person, agency, institution, or intermediary may sell or purchase or procure for sale or purchase any child for the purpose of adoption or any other purpose, including termination of parental rights. Nothing in this section shall prohibit a licensed child-placing agency from charging a fee for adoption services. Nothing in this section shall be construed to prohibit in vitro fertilization. For purposes of this section "in vitro fertilization" means the process whereby an egg is removed from a woman, then fertilized in a receptacle by the sperm of the husband of the woman in whose womb the fertilized egg will thereafter be implanted. ***All payments by the prospective adoptive parents of any expenses other than for ordinary legal services associated with the proposed adoption and maternity connected medical and hospital expenses of the mother preceding and during pregnancy related incapacity are prohibited. The payment of legal, medical, and hospital expenses of the mother is an act of charity and shall not be contingent upon placement of the minor for adoption, consent to the adoption, or cooperation in the completion of the adoption; any agreement to the contrary is against public policy and void.***

(3) ***No person, firm, corporation, association or public agency shall receive or accept a child under eighteen (18) years of age and place or offer to place such child for temporary or permanent care in a family home other than that of a relative within the third degree without being licensed as a child-placing agency.***

(4) No person, agency, institution, or intermediary shall be a party to a contract or agreement which would compensate a woman for her artificial insemination and subsequent termination of parental rights to a child born as a result of that artifical insemination. No person, agency, institution or intermediary shall receive compensation for the facilitation of contracts or agreements as proscribed by this subsection. Contracts or agreements entered into in violation of this subsection shall be void.

(5) No person, organization, group, agency, or any legal entity may accept any fee for bringing the adoptive parents together with the child to be adopted or the biological parents of the child to be adopted.

(6)[~~(4)~~] In any adoption for which approval of the secretary is required under KRS 199.470(4), ***the attorney for the prospective adoptive parents shall make a full, verified disclosure of all moneys paid, including an itemized statement as to the fees charged or legal services and other moneys paid by the prospective adoptive parents or other persons for any purpose related to the adoption to the court for approval or modification of the fees charged. The prospective adoptive parents shall also file a verified statement with the court that is a full accounting of all moneys paid in the adoption*** [~~the total amount of money paid, including attorney's fees, by adoptive parents for any purpose related to the adoption shall be made known to the court for approval or modification~~].

SECTION 8. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 199.500(1), an adoption may be granted without the consent of the biological living parents of a child if it is pleaded and proved as part of the adoption proceeding that any of the following exist with respect to the child:

(a) That the parent has abandoned the child for a period of not less than six (6) months;

(b) That the parent has inflicted or allowed to be inflicted upon the child, by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child, and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care, or education reasonably necessary and available for the child's wellbeing and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(2) Upon the conclusion of proof and argument of counsel, the Circuit Court shall enter a findings of fact, conclusion of law, and a decision either:

(a) Granting the adoption without the biological parent's consent; or

(b) Dismissing the adoption petition, and stating whether the child shall be returned to the biological parent or the child's custody granted to the state, another agency, or the petitioner.

Section 9. KRS 625.040 is amended to read as follows:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of ......, a child." The petition may be filed by a parent.

(2) The petition for the voluntary termination of parental rights shall be filed in the circuit court of the county where the petitioner resides or is found and shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex, date of birth and place of residence of the child;

(c) Name and relationship of each petitioner to the child;

(d) A concise statement of the factual basis for the termination of parental rights;

(e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

(f) A statement that the person, cabinet, or authorized agency to whom custody is to be given has facilities available, [~~and~~] is willing to receive the custody of the child***, and the person, if not excepted by KRS 199.470(4) or (5), has received the written approval of the secretary or the secretary's designee for the child's placement.***

(3) No petition may be filed under this chapter prior to five (5) days after the birth of the child.

Section 10. KRS 625.042 is amended to read as follows:

(1) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the circuit court shall set a date for a hearing.

(2) The circuit court shall require notice to be served upon the local representative of the cabinet in any case in which a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the cabinet or a licensed agency [~~unless the cabinet has approved the placement~~].

(3) Proceedings under this chapter shall be completed as soon as practicable. All hearings shall be held before the circuit court privately for the purpose of determining the facts. ***If the custody of the child is to be placed with an individual who does not fall within the exception provided for in KRS 199.470(4) or (5), the Circuit Court shall require the parent seeking termination to appear in person for the hearing and the parent may have legal representation; however, no attorney shall represent both the biological parent and the proposed custodian.***

(4) An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years.

(5) The best interests of the child shall be considered paramount.

(6) At the time of the hearing, the circuit court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

Section 11. KRS 625.043 is amended to read as follows:

(1) If the circuit court determines that parental rights are to be voluntarily terminated in accordance with the provisions of this chapter, it shall make an order terminating all parental rights and obligations of such parent and releasing the child from all legal obligations to such parent and vesting care and custody of the child in such person, agency or cabinet as the court believes is best qualified to receive custody.

(2) Upon consent by the cabinet for human resources, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency, or child-caring facility licensed by the cabinet or in another person provided all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. ***If the other person is not excepted by KRS 199.470 (4) or (5), a grant of custody shall be made only if the proposed custodian has received the written approval of the secretary or the secretary's designee for the child's placement.***

Section 12. KRS 199.555 is amended to read as follows:

(1) A "special needs child" means:

(a) A child which the state has determined cannot or should not be returned to the home of his parents; and

(b) A child which the state has first determined:

1. That there exists a specific factor or condition the existence of which leads to the reasonable conclusion that the child cannot be placed with adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX; and

2. That except where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoption assistance under this section or medical assistance under Title XIX.

(2) "State-funded adoption assistance" means payment of monthly maintenance to assist in meeting the special needs of a child which was placed by the Cabinet for Human Resources. The state funded adoption assistance shall also include payment of nonrecurring adoption expenses, and may include reimbursement of extraordinary medical expenses.

(3) "Nonrecurring adoption expenses" means those expenses which are incurred in the legal adoption of a special needs child for which parents are ultimately responsible which include reasonable and necessary adoption fees, court costs, attorney fees, and other expenses which are directly related to the special needs adoption and which are not incurred in violation of state or federal law.

(4) "Extraordinary medical expenses" means those expenses which are related to the child's special needs which existed prior to the adoption and are not reimbursed by private insurance, medicaid, or other third-party payors or government programs.

(5) If the secretary of the Cabinet for Human Resources or his designated representative finds that a child may benefit from being adopted and that the payment of a subsidy to adoptive parents after the adoption will increase the likelihood of adoption, funds may be paid to the adoptive parents after completion of the adoption of the child if the following conditions exist:

(a) The child was considered a special needs child prior to the adoption;

(b) The child is committed to the Cabinet for Human Resources and the cabinet has authority to consent to the child's adoption; and

(c) The adoptive parents can give suitable care to the child if a subsidy is paid.

(6) Agreements for the payments of funds under this section shall be made prior to the adoption of the child. However, if the secretary for human resources or his designated representative finds that the adoption is likely to disrupt, extraordinary medical expenses may be reimbursed contingent upon availability of resources, if the following conditions exist:

(a) The child was placed for adoption by the Cabinet for Human Resources;

(b) The child was considered a special needs child prior to the adoption;

(c) The parents have made a reasonable effort under the circumstances to meet the needs of the child without reimbursement for extraordinary medical expenses.

This subsection shall apply to any child meeting the conditions of this subsection who at the time of application for the post-adoption extraordinary medical expenses is under the age of eighteen (18). This subsection shall have retroactive as well as prospective effect.

(7) The payments shall be out of funds appropriated to the cabinet and those funds collected pursuant to KRS 199.473***(6)***[~~(5)~~] which shall be deposited in a restricted account for the purpose of subsidizing special needs adoptions, and shall be in accordance with regulations promulgated by the secretary. The payments shall not exceed the amount which would be paid for foster care for the child. Monthly maintenance payments shall not exceed the amount which would be paid for foster care for the child and may include reimbursement for extraordinary medical expenses. Payment of nonrecurring adoption expenses shall only be reimbursed up to the limit established by the secretary for human resources in accord with 42 U.S.C. 673. However, payments under agreements entered into under subsection (6) of this section shall be limited to reimbursement of authorized extraordinary medical expenses related to problems or conditions that existed prior to the adoption.

(8) State-funded adoption assistance payments shall not be made to parents if:

(a) The child has attained the age of eighteen (18), except that if the child is enrolled in a state or federal educational program, the payments may continue through age twenty-one (21);

(b) The cabinet determines the parents are no longer legally responsible for the support of the child; or

(c) The cabinet determines that the child is no longer receiving any support from the parents.

(9) Parents who have been receiving adoption assistance payments under this section shall keep the cabinet informed of circumstances which would, pursuant to subsection (8) of this section, make them ineligible for assistance, or eligible for assistance in a different amount.

(10) The cabinet shall establish criteria to be followed for the adoption of children under provisions of this section and shall promulgate the criteria by administrative regulations.

Section 13. KRS 199.990 is amended to read as follows:

(1) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.

(2) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570 and 199.590, or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.

(3) Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections or in subsection (1) of this section, or in any other applicable statute, shall be fined not less than ***one hundred dollars ($100)*** [~~twenty dollars ($20)~~] nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

(4) Any person who violates any of the provisions of KRS 199.896 shall be fined not less than one thousand dollars ($1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.

(5) Any person who violates any of the provisions of KRS 199.590 shall be guilty of a Class D felony and imprisoned for at least one (1) year but not more than five (5) years.

HB 943, AN ACT relating to limitation of actions.

WHEREAS, the recreational sport of roller skating is practiced by a large number of citizens of this Commonwealth; provides a wholesome and healthy family activity which should be encouraged; attracts to this Commonwealth a large number of nonresidents; and contributes significantly to the economy of this Commonwealth; and

WHEREAS, the allocation of the risks and costs of roller skating is an important matter of public policy; and

WHEREAS, roller skating rink owners face great difficulty in obtaining liability insurance coverage, and, when insurance coverage is available, drastic increases in the cost of the insurance have taken place and many roller skating rink owners are no longer able to afford it; and

WHEREAS, this lack of insurance coverage adversely affects not only the roller skating rink owners, but also patrons who may suffer personal injury and property damage as a result of accidents which occur on the premises of the roller skating rink; and

WHEREAS, in order to make it feasible for roller skating rinks to secure coverage, the incidence of liability should be more predictable. That predictability may be achieved by defining the limits of the liabilities of roller skating rink operators in order to encourage the development and implementation of risk reduction techniques;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act, the following definitions shall apply unless the context clearly indicates otherwise:

(1) "Operator" means a person who owns, manages, controls, directs, or has operational responsibility for a roller skating rink.

(2) "Roller skater" means an individual wearing roller skates while in a roller skating rink for the purpose of recreational or competitive roller skating. The term includes an individual in a roller skating rink who is an invitee, whether or not the person pays consideration.

(3) "Roller skating rink" means a building, facility, or premises which provides an area specifically designed to be used by the public for recreational or competitive roller skating.

(4) "Spectator" means an individual who is present in a roller skating rink only for the purpose of observing recreational or competitive roller skating.

SECTION 2. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

The operator shall:

(1) Post the duties of roller skaters and spectators and the duties, obligations, and liabilities of the operator, as prescribed in Sections 2 to 4 of this Act, in at least three (3) conspicuous locations in the roller skating rink.

(2) Maintain the stability and legibility of all signs, symbols, and posted notices required in subsection (1) of this section.

(3) When the rink is open for sessions, have at least one (1) floor guard on duty for approximately every two hundred (200) skaters.

(4) Maintain the skating surface in reasonably safe condition, and clean and inspect the skating surface before each session.

(5) Maintain the railings, kickboards, and walls surrounding the skating surface in reasonably safe condition.

(6) In rinks with step-up or step-down skating surfaces, insure that the covering on the riser is securely fastened.

(7) Install fire extinguishers and inspect fire extinguishers at recommended intervals.

(8) Provide reasonable security in parking areas during operational hours.

(9) Inspect emergency lighting units periodically to insure the lights are in proper order.

(10) Keep exit lights and service area lights on when skating surface lights are turned off during special numbers.

(11) Check rental skates on a regular basis to insure the skates are in good mechanical condition.

(12) Prohibit the sale or use of alcoholic beverages on the premises.

(13) Comply with all applicable state and local safety codes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

Each roller skater shall:

(1) Maintain reasonable control of his speed and course at all times.

(2) Heed all posted signs and warnings.

(3) Maintain a proper outlook to avoid other roller skaters and objects.

(4) Accept the responsibility for knowing the range of his own ability to negotiate the intended direction of travel while on roller skates and for skating within the limits of that ability.

(5) Refrain from acting in a manner which may cause or contribute to the injury of himself or another person.

SECTION 4. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

Roller skaters and spectators shall be deemed to have knowledge of and to assume the inherent risks of roller skating, insofar as those risks are obvious and necessary. These risks shall include, but shall not be limited to, injuries which result from incidental contact with other roller skaters or spectators, injuries which result from falls caused by loss of balance, and injuries which involve objects or artificial structures properly within the intended path of travel of the roller skater which are not otherwise attributable to breach of the operator's duties, set forth in Section 2 of this Act. Nothing in Sections 1 to 4 of this Act shall be construed to authorize or permit any recovery in excess of the injury or damage actually incurred.

The Committee Amendment No. 1 to **HB 943** is as follows:

Amend printed copy of **HB 943** on page 4, line 20, by deleting "***outlook***" and inserting "***lookout***"; and

on page 4, line 22, by deleting "***Accept the responsibility for knowing***" and inserting "***know***"; and

on page 5, lines 4 to 17, by deleting them in their entirety and inserting the following:

"***Each spectator shall:***

(I) Heed all posted signs and warnings;

(2) Keep off the rollerskating floor while skating is in progress; and

(3) Refrain from acting in a manner which may cause or contribute to the injury of himself or another person.

Section 5. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

A roller skater, spectator, or operator who violates the provisions of Sections 1 to 4 of this Act shall be liable in a civil action for damages for the loss or damage resulting from the violation."

SB 80, AN ACT relating to domestic relations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.150 is amended to read as follows:

(1) All proceedings under this chapter are commenced in the manner provided by the Rules of Civil Procedure.

(2) The verified petition in a proceeding for dissolution of marriage or legal separation shall allege the marriage is irretrievably broken and shall set forth:

(a) The age, occupation, and residence of each party and his length of residence in this state. ***If domestic violence and abuse, as defined in KRS 403.720, is alleged by either party, the party filing the petition shall certify the existence and status of any domestic violence protective orders. The party filing the petition and alleging the abuse may substitute the party's attorney's address as the address of the party and any minor children***;

(b) The date of the marriage and the place at which it was registered;

(c) That the parties are separated and the date on which the parties separated;

(d) The names, ages, and addresses of any living infant children of the marriage, and whether the wife is pregnant;

(e) Any arrangements as to custody, visitation, and support of the children and the maintenance of a spouse; and

(f) The relief sought.

(3) Either or both parties to the marriage may initiate the proceeding.

(4) If a proceeding is commenced by one of the parties, the other party must be served in the manner provided by the Rules of Civil Procedure and may file a verified response.

(5) Previously existing defenses to divorce and legal separation, including but not limited to condonation, connivance, collusion, recrimination, insanity, and lapse of time, are abolished.

(6) The court may join additional parties proper for the exercise of its authority to implement this chapter.

(7) When the wife is pregnant at the time the petition is filed, the court may continue the case until the pregnancy is terminated.

Section 2. KRS 403.270 is amended to read as follows:

(1) The court shall determine custody in accordance with the best interests of the child and equal consideration shall be given to each parent. The court shall consider all relevant factors including:

(a) The wishes of the child's parent or parents as to his custody;

(b) The wishes of the child as to his custodian;

(c) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(d) The child's adjustment to his home, school, and community; [~~and~~]

(e) The mental and physical health of all individuals involved***; and***

(f) Information, records, and evidence of domestic violence as defined in KRS 403.720.

(2) The court shall not consider conduct of a proposed custodian that does not affect his relationship to the child. ***If domestic violence and abuse is alleged, the court shall determine the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.***

(3) The abandonment of the family residence by a custodial party shall not be considered where said party was physically harmed or was seriously threatened with physical harm by his or her spouse, when such harm or threat of harm was causally related to the abandonment.

(4)[~~(3)~~] The court may grant joint custody to the child's parents if it is in the best interest of the child.

Section 3. KRS 403.320 is amended to read as follows:

(1) A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional health.

(2) ***If domestic violence and abuse, as defined in KRS 403.720, has been alleged, the court shall, after a hearing, determine the visitation arrangement, if any, which would not endanger seriously the child's or the custodial parent's physical, mental, or emotional health.***

(3) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child; but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral or emotional health.

The Committee Amendment No. 1 to **SB 80** is as follows:

Amend printed copy of **SB 80/GA** on page 4, after line 15, by adding the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

A court in any matrimonial action or family court proceeding involving a demand for support, alimony, maintenance, distributive awards, or special relief in matrimonial actions may exercise personal jurisdiction over the respondent or defendant notwithstanding the fact that he or she no longer is a resident or domiciliary of this state, or over his or her executor or administrator, if the party seeking support is a resident of or domiciled in this state at the time the demand is made, if this state was the matrimonial domicile of the parties before their separation; the defendant abandoned the plaintiff in this state; or the claim for support, alimony, maintenance, distributive awards, or special relief in matrimonial actions accrued under the laws of this state. The action shall be filed within one (1) year of the date the respondent or defendant became a nonresident of, or moved his domicile from, this state."

SB 116, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 531.310 to 531.370 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of matter portraying a sexual performance by a minor when, having knowledge of its content, character, and that the sexual performance is by a minor, he knowingly has in his possession or control any matter which visually depicts an actual sexual performance by a minor person.

(2) Possession of matter portraying a sexual performance by a minor is a Class A misdemeanor for the first offense and a Class D felony for the second and subsequent offenses.

Section 2. KRS 531.340 is amended to read as follows:

(1) A person is guilty of distribution of matter portraying a sexual performance by a minor when, having knowledge of its content and character, he:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he:

1. Exhibits for profit or gain; or

2. Distributes; or

3. Offers to distribute; or

4. Has in his possession with intent to distribute, exhibit for profit or gain or offer to distribute, any matter portraying a sexual performance by a minor.

(2) Any person who has in his possession more than one (1) unit of material coming within the provision of KRS 531.300(2) shall be rebuttably presumed to have such material in his possession with the intent to distribute it.

(3) Distribution of matter portraying a sexual performance by a minor is a Class [~~A misdemeanor unless the defendant has in his possession more than one (1) unit of material coming within the provisions of KRS 531.300, in which case it shall be a Class~~] D felony.

SB 160, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification involving the sex organs of one (1) person and the mouth or anus of another;

(2) "Forcible compulsion" means physical force or threat of physical force, express or implied, which places a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped;

(3) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association;

(4) "Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;

(5) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(6) "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(7) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying the sexual desire of either party; and

(8) "Sexual intercourse" means sexual intercourse in its ordinary sense ***and includes penetration of the sex organs or anus of one person by a foreign object manipulated by another person***. Sexual intercourse occurs upon any penetration, however slight; emission is not required. ***"Sexual intercourse" does not include penetration of the female sex organ by a foreign object in the course of the performance of generally recognized health care practices.***

(9) "Foreign object" means anything used in commission of a sexual act other than the person of the actor.

The Committee Amendment No. 1 to **SB 160** is as follows:

Amend printed copy of **SB 160/GA** on page 2, line 24, to delete "***female***";

and on page 2, line 24, following "***organ***" to add "***or anus***".

SB 187, AN ACT relating to attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 620.100 is amended to read as follows:

(1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:

(a) The court shall appoint [~~private~~] counsel for the child to be paid for by the Cabinet for Finance and Administration. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Human Resources, of the order appointing counsel. The fee to be fixed by the court shall not exceed five hundred dollars ($500)***;*** [~~provided,~~] however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250);

(b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision if the parent is unable to afford counsel pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Human Resources, of the order appointing counsel. The parent's counsel shall be provided or paid for by the Cabinet for Finance and Administration. The fee to be fixed by the court shall not exceed five hundred dollars ($500)***;*** [~~provided,~~] however, if the action has final disposition in the district court, the fee shall not exceed two hundred fifty dollars ($250); and

(c) The court may, in the interest of justice, appoint separate counsel for a nonparent who exercises custodial control or supervision of the child, if ***the*** [~~such~~] person is unable to afford counsel, pursuant to KRS Chapter 31. The clerk of the court shall arrange for service on all parties, including the local representative of the Cabinet for Human Resources, of the order appointing counsel. Counsel for ***the*** [~~such~~] person shall be provided or paid for by the finance and administration cabinet. The fee to be fixed by the court shall not exceed five hundred dollars ($500)***;*** [~~provided,~~] however, if the action has final disposition in the District Court, the fee shall not exceed two hundred fifty dollars ($250).

(2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal.

(3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.

(4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.

Section 2. KRS 31.120 is amended to read as follows:

(1) The determination of whether a person covered by KRS 31.110 is a needy person shall be deferred no later than his first appearance in court or in a suit for payment or reimbursement under KRS 31.150, whichever occurs earlier. Thereafter, the court concerned shall determine, with respect to each step in the proceedings, whether he is a needy person. However, nothing herein shall prevent appointment of counsel at the earliest necessary proceeding at which ***the*** [~~said~~] person is entitled to counsel, upon declaration by ***the*** [~~said~~] person that he is needy under the terms of this chapter. In ***that*** [~~such~~] event, the person involved shall be required to make reimbursement for the representation involved if he later is determined not a needy person under the terms of this chapter. ***At arraignment, the court shall conduct a nonadversarial hearing to determine whether a person for whom a public defender has been appointed is able to pay a partial fee.***

(2) In determining whether a person is a needy person and in determining the extent of his, and, in the case of an unemancipated minor under KRS 31.100(3)(c), his custodial parent's or guardian's inability to pay, the court concerned shall consider such factors as income, property owned, outstanding obligations, and the number and ages of his dependents. Release on bail, or any other method of release provided in KRS Chapter 431, ***shall*** [~~does~~] not necessarily prevent him from being a needy person. In each case, the person, and, if an unemancipated minor under KRS 31.100(3)(c) and (d), his custodial parent or guardian subject to the penalties for perjury, shall certify by affidavit of indigency compiled by the pre-trial release officer, where practical, as provided under KRS Chapter 431 and Supreme Court Rules or orders promulgated pursuant thereto, ***the*** [~~such~~] material factors relating to his ability to pay in ***the*** [~~such~~] form [~~as~~] the Supreme Court prescribes.

(3) It shall be prima facie evidence that a person is not indigent or needy within the meaning of this chapter if he and, in the case of an unemancipated minor under KRS 31.100(3)(c) and (d), if his custodial parent or guardian:

(a) Owns real property in the Commonwealth or without the Commonwealth;

(b) Is not receiving, or if not receiving is not eligible to receive, public assistance payments at the time the affidavit of indigency is executed;

(c) Has paid money bail (other than a property bond of another), whether deposited by himself or another, to secure his release from confinement on the present charge of which he stands accused or convicted; or

(d) Owns more than one (1) motor vehicle.

(4) To the extent that a person covered by KRS 31.110, and, in the case of an unemancipated minor under KRS 31.100(3)(c) and (d), his custodial parent or guardian, is able to provide for an attorney, the other necessary services and facilities of representation, and court costs, the court shall order payment in an amount determined by the court and may order that ***the*** [~~such~~] payment be made in a lump sum or by installment payments. ***The*** [~~Such~~] determination shall be made at each stage of the proceedings.

(5) The court shall order all moneys collected pursuant to subsection (4) of this section be paid to the clerk of that court pursuant to the schedule of payment. The clerk shall forward to the Office for Public Advocacy on a monthly basis a copy of all ***the*** [~~such~~] orders and the moneys collected pursuant thereto with an accounting as to each case.

(6) The affidavit of indigency, to be subscribed and sworn to by the person, and, in the case of an unemancipated minor under KRS 31.100(3)(c), by his custodial parent or guardian, shall be as set out herein:

Commonwealth of Kentucky

County of ____________________

Affiant ____________________________, being first duly sworn says that he is not now represented by private counsel and that he does not have the money or assets out of which to employ one; that he is indigent and requests the court to appoint counsel.

Affiant states that his income is __________; that he owns the following property:

Description	Value
______________________________	________________
______________________________	________________
______________________________	________________

that he has the following dependents:

Name	Age	Relationship
________________________________	_______	____________________
________________________________	_______	____________________

and that he has the following obligations:

To whom owed	Amount owing
______________________________	________________
______________________________	________________
______________________________	________________
______________________________	________________

____
Signature of affiant

Subscribed and sworn to before me this _____ day of _____________, 19___

____
Signature and title of officer administering the oath

Any persons making false statements in the above affidavit shall be subject to the penalties for perjury under KRS Chapter 523, the maximum penalty for which is five (5) years imprisonment.

Section 3. KRS 31.250 is amended to read as follows:

(1) ***Except for attorneys appointed pursuant to KRS 620.100, 625.041, 625.080, and 31.120,*** no attorney participating in a public advocacy plan shall accept any fees for the representation of any needy person as defined in this chapter from that person or anyone for his benefit and the fees for representation of that person shall be limited to the fees provided in this chapter. "Fees" shall include cash, property, or other pecuniary benefits of any kind.

(2) Any attorney participating in a public advocacy plan who receives or attempts to collect a fee from a needy person as prohibited by subsection (1) above shall be guilty of a Class D Felony.

SB 202, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.472 is amended to read as follows:

Unless the context otherwise requires, the following terms shall mean:

(1) "Recreational and retirement use" land ***means*** [~~shall mean~~] that land which is sold and promoted with primary emphasis on the land's value for recreational purposes or for retirement purposes. In order to carry out the purposes of KRS 367.470 to 367.486, the Attorney General may by ***administrative*** regulations further define the term "Recreational and Retirement Use" of land;

(2) "Offer" includes every inducement, solicitation, or attempt to encourage a person to acquire an interest in land;

(3) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, partnership, unincorporated association, two (2) or more of any of the foregoing having a joint or common interest or any other legal or commercial entity;

(4) "Purchaser" means a person who acquires or attempts to acquire or succeeds to an interest in land;

(5) "Subdivider" means any owner of subdivided land who offers it for disposition or the principal agent of ***the*** [~~such~~] owner.

(6) "Subdivision and subdivided lands" means any land which is divided or is proposed to be divided for the purpose of disposition into ten (10) or more lots, parcels, units, or interests and also includes any land, whether contiguous or not, if ten (10) or more lots, parcels, units, or interests are offered as a part of a common promotional plan of advertising and sale.

(7) "Land" and "interest in land" mean any right to own, use, or enjoy land, including, but not limited to, fee estates, life estates, leasehold estates, easements, undivided interests, licenses, and any other legal or equitable interest in real property but not including interests in the nature of personal property which are nontransferable by the purchaser.

(8) "Development" means the recreational and retirement use land itself together with any existing or future common areas, undeveloped land, improvements, or amenities which are or have been advertised or used to induce the purchase of recreational and retirement use land irrespective of whether particular improvements or amenities existed at the time of sales to particular individuals.

(9) "Consumer credit contract" means any instrument which evidences or embodies a debt incurred by a natural person for the purchase, lease, or use of recreational and retirement use land which is intended for personal, family, or household use.

SECTION 2. A NEW SECTION OF KRS 367.470 TO 367.486 IS CREATED TO READ AS FOLLOWS:

(1) For any recreational and retirement use land physically located in this state, maintenance fees paid shall be held in trust by the seller of recreational and retirement use land for the benefit of the owners of individual interests. The fees shall be deposited into a separate account in a financial institution authorized to conduct business in this state. For purposes of this section, "financial institution" means a federally chartered bank, a state chartered bank, or a federally chartered savings and loan association. If any agent is designated by the seller of recreational and retirement use land to collect maintenance fees, both the seller and the agent shall be trustees of the funds collected.

(2) The maintenance fees shall be used only for the maintenance, care, and security of the development. The Attorney General shall be entitled to demand and inspect the records necessary to verify compliance with this statute.

(3) Nothing in this section shall be construed to limit the right of the seller of recreational and retirement use land from assigning for collection purposes only any maintenance fees which are more than sixty (60) days delinquent if:

(a) The assignee for collection purposes receives no more than thirty-five percent (35%) of the delinquent fees collected; and

(b) The assignee for collection purposes is not owned or controlled by the seller of recreational and retirement use land.

SECTION 3. A NEW SECTION OF KRS 367.470 TO 367.486 IS CREATED TO READ AS FOLLOWS:

(1) Any natural person who purchases recreational and retirement use land for personal, family, or household purposes shall have an easement for the use of any common areas, undeveloped land, improvements, or amenities which are part of the development in which the person has purchased an interest or which are later added to the development. An individual person's right to exercise this easement may be suspended for wrongful nonpayment of maintenance fees.

(2) The easement interest shall be superior to that of any other lien, encumbrance, license, or other interest in the real property.

(3) Any person who obtained or granted an encumbrance, lien, lease, license, or other interest in any of the real property upon which the development is located with actual or constructive knowledge of its intended use as recreational and retirement use land shall be estopped from denying the validity of the easement.

(4) Any waiver of this right to an easement shall be void.

SECTION 4. A NEW SECTION OF KRS 367.470 TO 367.486 IS CREATED TO READ AS FOLLOWS:

Any holder or assignee of a consumer credit contract shall be subject to the claims and defenses that the consumer has against the seller or lessor of recreational and retirement use land notwithstanding whether the sale or lease is for a specific portion of real property; an undivided interest in real property; or an easement, license, lease, or other right to use real property. The liability of the assignee or holder under this statute shall not exceed the amount due on the contract.

Section 5. KRS 367.474 is amended to read as follows:

(1) In the sale or offering for sale of any subdivision which is primarily directed toward recreational or retirement use, in the sale of which any improvements are advertised but not completed, or ***which are completed but for which supplies of labor and material have not been paid*** [~~completed but not paid for~~], the subdivider shall furnish a ***performance*** bond payable to the Attorney General in an amount equal to the costs of all ***the*** [~~such~~] improvements, including, but not limited to, roads, lakes, golf courses, and stables which are [~~so~~] advertised prior to the sale of ***the*** [~~any such~~] land or property. ***The*** [~~Such~~] bond shall remain in effect until the advertised improvements are made; and if ***they are*** not completed within a time deemed reasonable by the Attorney General, ***the bond*** shall, after ***a*** hearing, be forfeited to the Attorney General for the use and benefit of the purchasers of the property. ***Surety for the bond shall be by a company authorized to write surety bonds in this state.*** Upon completion of the promised improvements and production of releases by all creditors with a potential lien interest in ***the*** [~~such~~] improvements and production of a verified statement to this effect, the subdivider may petition the Attorney General for release of the bond.

(2) If the land or property offered for sale by the subdivider is located outside of the Commonwealth of Kentucky and is sold both to Kentucky residents and residents of other jurisdictions, the Attorney General may accept a bond as described in subsection (1) of this section equal to the pro rata share of improvements for that property that is reasonably anticipated to be sold to Kentucky residents.

(3) In lieu of the bonding requirements appearing in subsection (1) of this section, a subdivider may, with the approval of the Attorney General, place in an approved escrow account fifty percent (50%) of receipts of sales of ***the*** [~~such~~] subdivided lots until the amount necessary to make the improvements has been accumulated or the improvements advertised by the subdivider made ***and the suppliers of labor and material paid.*** If the improvements are not made within a reasonable time as determined by the Attorney General, ***the*** [~~such~~] escrow account, after hearing, shall revert to the benefit of the subdivision purchasers.

Section 6. KRS 367.477 is amended to read as follows:

(1) In ***the*** [~~a~~] sale of ***any*** interest ***subject to Sections 1 to 8 of this Act***, the subdivider shall present to the buyer and obtain his signature to a written agreement or offer to purchase which designates as the date of the transaction the date on which the buyer actually signs and contains a statement of the buyer's rights which complies with subsection (2) of this section.

(2) The statement shall:

(a) Appear under the conspicuous caption: "BUYER'S RIGHT TO CANCEL," in bold-face type of a minimum size of fourteen (14) points; and

(b) Read as follows: "If you decide you do not want this interest you may cancel this agreement by mailing a notice to the seller. The notice must say that you do not want the interest and must be mailed before midnight of the fifth business day after you sign this agreement. The notice must be mailed to:

____

____"

(3) ***A copy of the written agreement or offer to purchase containing the notice of right to cancel shall be given to the buyer on the date the buyer signs.***

(4) Until the seller has complied with this section, the buyer may cancel the sale by notifying the seller in any manner and by any means of his intention to cancel.

Section 7. KRS 367.484 is amended to read as follows:

(1) When [~~Whenever~~] the Attorney General has reason to believe that any person is offering recreational and retirement use land for sale in violation of KRS 367.470 to 367.486 or any ***administrative*** [~~rules or~~] regulations issued by the Attorney General pursuant to KRS 367.480, and that proceedings would be in the public interest, he may move in the name of the Commonwealth in a Circuit Court for a restraining order or temporary or permanent injunction to prohibit ***the*** [~~such~~] offer. The action may be brought in the Circuit Court in the county in which ***the*** [~~such~~] person resides or has his principal place of business or in the Circuit Court of the county in which the unlawful offer or sale has been or is about to be committed, or in the county in which the land is situated.

(2) A violation of Sections 1 to 6 of this Act shall be deemed to be an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce in violation of KRS 367.170.

(3) All the remedies, powers, and duties provided for the Attorney General by KRS 367.190 to 367.300 and 367.990, pertaining to acts declared unlawful by KRS 367.170, shall apply with equal force and effect to acts declared unlawful by KRS 367.470 to 367.486.

(4) Nothing in KRS 367.470 to 367.486 shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General which he is authorized to exercise or perform under any other provision of law.

(5) The Attorney General shall have the authority to adopt other administrative regulations he deems necessary for the proper administration of this chapter.

SECTION 8. A NEW SECTION OF KRS 367.990 TO 367.999 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly violates or causes to be violated any provision of Section 2 of this Act shall be guilty of a Class C felony.

SB 210, AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.010 is amended to read as follows:

In this chapter:

(1) "Person" includes one or more individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(2) "Commission" means the Kentucky commission on human rights.

(3) "Commissioner" means a member of the commission.

(4) ***"Disability" means, with respect to an individual:***

(a) A physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

Persons excluded from coverage by the Americans with Disabilities Act of 1990 (104 Stat. 330) shall be excluded from this section.

(5) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons because of race, color, religion, national origin, sex, or age between forty (40) and seventy (70), or the aiding, abetting, inciting, coercing, or compelling thereof.

(6) "Employer" means a person engaged in an industry affecting commerce who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of such person, except that, for two (2) years following the effective date of this Act, an employer means a person engaged in an industry affecting commerce who has twenty-five (25) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding year and any agent of such person.

(7) For purposes of this chapter, employer shall not include:

(a) The United States, a corporation wholly owned by the government of the United States, or an Indian tribe; or

(b) A bona fide private membership club (other than a labor organization) that is exempt from taxation under Section 501(c) of the Internal Revenue Code of 1986.

(8)[~~(5)~~] "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(9) "Housing accommodations" includes improved and unimproved property and means a building, structure, lot or part thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied as the home or residence of one or more individuals.

(10)[~~(7)~~] "Real estate operator" means any individual or combination of individuals, labor unions, joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, the county, or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

(11)[~~(8)~~] "Real estate broker" or "real estate salesman" means an individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in such activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for such purpose; or an individual employed by or acting on behalf of any of these.

(12)[~~(9)~~] "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(13)[~~(10)~~] "Licensing agency" means any public or private organization which has as one of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

(14)[~~(11)~~] "Credit transaction" shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations, or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or services therefrom may be deferred.

Section 2. KRS 344.020 is amended to read as follows:

(1) The general purposes of this chapter are:

(a) To provide for execution within the state of the policies embodied in the federal Civil Rights Act of 1964 as amended (78 Stat. 241), title VIII of the federal Civil Rights Act of 1968 (82 Stat. 81), [~~and~~] the federal Age Discrimination in Employment Act of 1967 (81 Stat. 602)***, and the Americans with Disabilities Act of 1990 (104 Stat. 330)***;

(b) To safeguard all individuals within the state from discrimination because of ***disability,*** race, color, religion, national origin, sex, and age; thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest which would menace its democratic institutions, to preserve the public safety, health, and general welfare, and to further the interest, rights, and privileges of individuals within the state;

(c) To establish as the policy of the Commonwealth the safeguarding of the rights of an individual selling or leasing [~~his own~~] property through private sale without the aid of any real estate operator, broker, or salesman and without advertising or public display.

(2) This chapter shall be construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

(3) Nothing in this chapter shall be construed as indicating an intent to exclude local laws on the same subject matter not inconsistent with this chapter.

(4) Nothing contained in this chapter shall be deemed to repeal any other law of this state relating to discrimination because of ***disability,*** race, color, religion, national origin, sex, or age.

Section 3. KRS 344.025 is amended to read as follows:

No provision in KRS Chapter 18A shall be construed to preclude any classified or unclassified state employee from appealing to the personnel board any action alleged to be in violation of laws prohibiting discrimination based on ***disability,*** sex, age, religion, or race or national origin, in accordance with this chapter.

Section 4. KRS 344.030 is amended to read as follows:

For the purposes of KRS 344.030 to 344.110:

(1) ***"Disability" means an individual with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires. For the purposes of KRS 344.030 to 344.110, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.***

(2) "Employer" means a person who has eight (8) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person.

(3)[~~(2)~~] "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person.

(4)[~~(3)~~] "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(5)[~~(4)~~] "Employee" means an individual employed by an employer, but does not include an individual employed by his parents, spouse or child, or an individual employed to render services as a domestic in the home of the employer.

(6) "Reasonable accommodation" means making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(7)[~~(5)~~] "Religion" means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(8)[~~(6)~~] The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in this section shall be interpreted to permit otherwise.

(9) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the nature and cost of the accommodation needed. Factors to be considered shall include:

(a) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at the facility; the effect on expenses and resources; or the impact otherwise of such accommodation upon the operation of the facility;

(b) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees; and the number, type, and location of its facilities; and

(c) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

Section 5. KRS 344.040 is amended to read as follows:

It is an unlawful practice for an employer:

(1) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to [~~his~~] compensation, terms, conditions, or privileges of employment, because of the individual's ***disability,*** race, color, religion, national origin, sex, age between forty (40) and seventy (70), or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;

(2) To limit, segregate, or classify [~~his~~] employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect [~~his~~] status as an employee, because of the individual's ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70), or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking; or

(3) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking.

Section 6. KRS 344.050 is amended to read as follows:

(1) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of his race, color, religion, national origin, sex, or age between forty (40) and seventy (70), or to classify or refer for employment an individual on the basis of ***disability,*** [~~his~~] race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

(2) It is an unlawful practice for a licensing agency to refuse to license, or to bar or terminate from licensing an individual because of ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

Section 7. KRS 344.060 is amended to read as follows:

It is an unlawful practice for a labor organization:

(1) To exclude or to expel from its membership, or otherwise to discriminate against, a member or applicant for membership because of ***disability,*** [~~his~~] race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

(2) To limit, segregate, or classify its membership, or to classify or fail to refuse to refer for employment an individual, in any way which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect ***the*** [~~his~~] status as an employee or as an applicant for employment, because of ***disability,*** [~~such individual's~~] race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

Section 8. KRS 344.070 is amended to read as follows:

It is an unlawful practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of ***disability,*** [~~his~~] race, color, religion, national origin, sex, or age between forty and sixty-five in admission to or employment in, any program established to provide apprenticeship or other training.

Section 9. KRS 344.080 is amended to read as follows:

It is an unlawful practice for an employer, labor organization, licensing agency, or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by the employment or licensing agency, indicating any preference, limitation, specification, or discrimination, based on ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70), except that such a notice or advertisement may indicate a preference, limitation, or specification based on ***disability,*** religion, national origin, sex or age between forty (40) and seventy (70), when ***disability,*** religion, national origin, sex, or age between forty (40) and seventy (70), is a bona fide occupational qualification for employment.

Section 10. KRS 344.100 is amended to read as follows:

Notwithstanding any other provision of this chapter, it is not an unlawful practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70), nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

Section 11. KRS 344.110 is amended to read as follows:

(1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70) of the individual or group on account of an imbalance which may exist with respect to

the total number or percentage of persons of any ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70) employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number or percentage of persons of ***disability,*** [~~such~~] race, color, religion, national origin, sex, or age between forty (40) and seventy (70) in the state or a community, section, or other area, or in the available workforce in the state or a community, section or other area.

(2) Nothing contained in this chapter regarding age prohibits:

(a) Minimum hiring ages otherwise provided by law.

(b) State compliance with federal regulations.

(c) Termination of the employment of any person who is unable to perform ***the job*** [~~his~~] duties.

(d) Any physical or medical examinations of applicants or employees which an employer requires to determine fitness for the job or position sought or held.

(e) An employer, labor organization or employment agency from observing the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual.

Section 12. KRS 344.120 is amended to read as follows:

Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, as defined in KRS 344.130, on the ground of ***disability,*** race, color, religion, or national origin.

Section 13. KRS 344.140 is amended to read as follows:

It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a written, printed, oral or visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, will be refused, withheld from, or denied an individual on account of ***disability,*** [~~his~~] race, color, religion, or national origin, or that the patronage of, or presence at, a place of public accommodation, resort or amusement, of an individual, on account of ***disability,*** [~~his~~] race, color, religion, or national origin is objectionable, unwelcome, unacceptable, or undesirable.

The Committee Substitute to **SB 210** is as follows:

SB 210, AN ACT relating to civil rights.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 344.010 is amended to read as follows:

In this chapter:

(1) "Person" includes one or more individuals, labor ***organizations*** [~~unions~~], joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, ***fiduciaries,*** receivers, or other legal or commercial entity; the state, any of its political or civil subdivisions or agencies.

(2) "Commission" means the Kentucky commission on human rights.

(3) "Commissioner" means a member of the commission.

(4) ***"Disability" means, with respect to an individual:***

(a) A physical or mental impairment that substantially limits one (1) or more of the major life activities of the individual;

(b) A record of such an impairment; or

(c) Being regarded as having such an impairment.

Persons with current or past controlled substances abuse or alcohol abuse problems and persons excluded from coverage by the Americans with Disabilities Act of 1990 (P.L. 101 - 336) shall be excluded from this section.

(5) "Discrimination" means any direct or indirect act or practice of exclusion, distinction, restriction, segregation, limitation, refusal, denial, or any other act or practice of differentiation or preference in the treatment of a person or persons [~~because of race, color, religion, national origin, sex, or age between forty (40) and seventy (70)~~], or the aiding, abetting, inciting, coercing, or compelling thereof ***made unlawful under this chapter.***

(6)[~~(5)~~] "Real property" includes buildings, structures, real estate, lands, tenements, leaseholds, cooperatives, condominiums, and hereditaments, corporeal and incorporeal, or any interest in the above.

(7) "Housing accommodations" includes improved and unimproved property and means ***any*** [~~a~~] building, structure, lot or ***portion*** [~~part~~] thereof, which is used or occupied, or is intended, arranged, or designed to be used or occupied as the home or residence of one or more ***persons, and any vacant land which is offered for sale or lease for the construction or location thereon of any building or structure*** [~~individuals~~].

(8)[~~(7)~~] "Real estate operator" means any individual or combination of individuals, labor ***organizations*** [~~unions~~], joint apprenticeship committees, partnerships, associations, corporations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees in bankruptcy, receivers, or other legal or commercial entity, the county, or any of its agencies, that is engaged in the business of selling, purchasing, exchanging, renting, or leasing real estate, or the improvements thereon, including options, or that derives income, in whole or in part, from the sale, purchase, exchange, rental, or lease of real estate; or an individual employed by or acting on behalf of any of these.

(9)[~~(8)~~] "Real estate broker" or "real estate salesman" means ***any*** [~~an~~] individual, whether licensed or not, who, on behalf of others, for a fee, commission, salary, or other valuable consideration, or who with the intention or expectation of receiving or collecting the same, lists, sells, purchases, exchanges, rents, or leases real estate, or the improvements thereon, including options, or who negotiates or attempts to negotiate on behalf of others such an activity; or who advertises or holds himself out as engaged in ***these*** [~~such~~] activities; or who negotiates or attempts to negotiate on behalf of others a loan secured by mortgage or other encumbrance upon a transfer of real estate, or who is engaged in the business of charging an advance fee or contracting for collection of a fee in connection with a contract whereby he undertakes to promote the sale, purchase, exchange, rental, or lease of real estate through its listing in a publication issued primarily for ***this*** [~~such~~] purpose; or ***any person*** [~~an individual~~] employed by or acting on behalf of any of these.

(10)[~~(9)~~] "Financial institution" means bank, banking organization, mortgage company, insurance company, or other lender to whom application is made for financial assistance for the purchase, lease, acquisition, construction, rehabilitation, repair, maintenance, or improvement of real property, or an individual employed by or acting on behalf of any of these.

(11)[~~(10)~~] "Licensing agency" means any public or private organization which has as one of its duties the issuing of licenses or the setting of standards which an individual must hold or must meet as a condition to practicing a particular trade or profession or to obtaining certain employment within the state or as a condition to competing effectively with an individual who does hold a license or meet the standards.

(12)[~~(11)~~] "Credit transaction" shall mean any open or closed end credit transaction whether in the nature of a loan, retail installment transaction, credit card issue or charge, or otherwise, and whether for personal or for business purposes, in which a service, finance, or interest charge is imposed, or which provides for repayment in scheduled payments, when such credit is extended in the course of the regular course of any trade or commerce, including but not limited to transactions by banks, savings and loan associations, or other financial lending institutions of whatever nature, stock brokers, or by a merchant or mercantile establishment which as part of its ordinary business permits or provides that payment for purchases of property or services therefrom may be deferred.

(13) "To rent" means to lease, to sublease, to let, or otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(14) "Family" includes a single individual.

(15) (a) "Familial status" means one (1) or more individuals who have not attained the age of eighteen (18) years and are domiciled with:

1. A parent or another person having legal custody of the individual or individuals; or

2. The designee of a parent or other person having custody, with the written permission of the parent or other person.

(b) The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of eighteen (18) years.

(16) "Discriminatory housing practice" means an act that is unlawful under Section 36, 39, 40, 41, or 42 of this Act.

Section 2. KRS 344.020 is amended to read as follows:

(1) The general purposes of this chapter are:

(a) To provide for execution within the state of the policies embodied in the Federal Civil Rights Act of 1964 as amended (78 Stat. 241), title VIII of the Federal Civil Rights Act of 1968 (82 Stat. 81), ***The Fair Housing Act as amended (42 U.S.C. 360),*** [~~and~~] the Federal Age Discrimination in Employment Act of 1967 (81 Stat. 602)***, and the Americans with Disabilities Act of 1990 (P.L. 101-336)***;

(b) To safeguard all individuals within the state from discrimination because of ***familial status, disability,*** race, color, religion, national origin, sex, and age ***forty (40) to seventy (70)***; thereby to protect their interest in personal dignity and freedom from humiliation, to make available to the state their full productive capacities, to secure the state against domestic strife and unrest which would menace its democratic institutions, to preserve the public safety, health, and general welfare, and to further the interest, rights, and privileges of individuals within the state;

(c) To establish as the policy of the Commonwealth the safeguarding of the rights of an individual selling or leasing his ***primary residence*** [~~own property~~] through private sale without the aid of any real estate operator, broker, or salesman and without advertising or public display.

(2) This chapter shall be construed to further the general purposes stated in this section and the special purposes of the particular provision involved.

(3) Nothing in this chapter shall be construed as indicating an intent to exclude local laws on the same subject matter not inconsistent with this chapter.

(4) Nothing contained in this chapter shall be deemed to repeal any other law of this state relating to discrimination because of ***familial status, disability,*** race, color, religion, national origin, sex, or age ***forty (40) to seventy (70)***.

Section 3. KRS 344.025 is amended to read as follows:

No provision in KRS Chapter 18A shall be construed to preclude any classified or unclassified state employee from appealing to the personnel board any action alleged to be in violation of laws prohibiting discrimination based on ***disability,*** sex, age, religion, or race or national origin, in accordance with this chapter.

Section 4. KRS 344.030 is amended to read as follows:

For the purposes of KRS 344.030 to 344.110:

(1) ***"Disability" means an individual with a disability as defined in KRS 344.010 who, with or without reasonable accommodation, can perform the essential functions of the employment position that the individual holds or desires unless an employer demonstrates that he is unable to reasonably accommodate an employee's or prospective employee's disability without undue hardship on the conduct of the employers' business. For the purposes of KRS 344.030 to 344.110, consideration shall be given to the employer's judgment as to what functions of a job are essential, and if an employer has prepared a written description before advertising or interviewing applicants for the job, this description shall be considered evidence of the essential functions of the job.***

(2) "Employer" means a person who has eight (8) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year and an agent of such a person***, except for purposes of determining discrimination based on disability, employer means a person engaged in an industry affecting commerce who has fifteen (15) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding calendar year, and any agent of that person, except that, until July 26, 1993, an employer means a person engaged in an industry affecting commerce who has twenty-five (25) or more employees for each working day in each of twenty (20) or more calendar weeks in the current or preceding year, and any agent of that person.***

(3)[~~(2)~~] "Employment agency" means a person regularly undertaking with or without compensation to procure employees for an employer or to procure for employees opportunities to work for an employer and includes an agent of such person.

(4)[~~(3)~~] "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint or system board, or joint council so engaged which is subordinate to a national or international labor organization.

(5)[~~(4)~~] "Employee" means an individual employed by an employer, but does not include an individual employed by his parents, spouse or child, or an individual employed to render services as a domestic in the home of the employer.

(6) "Reasonable accommodation" means making existing facilities used by employees readily accessible to and usable by individuals with disabilities; and job restructuring, part-time or modified work schedules, reassignment to a vacant position, acquisition or modification of equipment or devices, appropriate adjustment or modifications of examinations, training materials or policies, the provision of qualified readers or interpreters, and other similar accommodations for individuals with disabilities.

(7)[~~(5)~~] "Religion" means all aspects of religious observance and practice, as well as belief, unless an employer demonstrates that he is unable to reasonably accommodate to an employee's or prospective employee's religious observance or practice without undue hardship on the conduct of the employer's business.

(8)[~~(6)~~] The terms "because of sex" or "on the basis of sex" include, but are not limited to, because of or on the basis of pregnancy, childbirth, or related medical conditions; and women affected by pregnancy, childbirth, or related medical conditions shall be treated the same for all employment-related purposes, including receipt of benefits under fringe benefit programs, as other persons not so affected but similar in their ability or inability to work, and nothing in this section shall be interpreted to permit otherwise.

(9) "Undue hardship" means an action requiring significant difficulty or expense, when considered in light of the nature and cost of the accommodation needed. Factors to be considered shall include:

(a) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation; the number of persons employed at the facility; the effect on expenses and resources; or the impact otherwise of such accommodation upon the operation of the facility;

(b) The overall financial resources of the covered entity, the overall size of the business of a covered entity with respect to the number of its employees; and the number, type, and location of its facilities; and

(c) The type of operation or operations of the covered entity, including the composition, structure, and functions of the workforce of such entity; the geographic separateness, administrative, or fiscal relationship of the facility or facilities in question to the covered entity.

Section 5. KRS 344.040 is amended to read as follows:

It is an unlawful practice for an employer:

(1) To fail or refuse to hire, or to discharge any individual, or otherwise to discriminate against an individual with respect to [~~his~~] compensation, terms, conditions, or privileges of employment, because of the individual's ***disability,*** race, color, religion, national origin, sex, age between forty (40) and seventy (70), or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking;

(2) To limit, segregate, or classify [~~his~~] employees in any way which would deprive or tend to deprive an individual of employment opportunities or otherwise adversely affect [~~his~~] status as an employee, because of the individual's ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70), or because the individual is a smoker or nonsmoker, as long as the person complies with any workplace policy concerning smoking; or

(3) To require as a condition of employment that any employee or applicant for employment abstain from smoking or using tobacco products outside the course of employment, as long as the person complies with any workplace policy concerning smoking.

Section 6. KRS 344.050 is amended to read as follows:

(1) It is an unlawful practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, an individual because of his race, color, religion, national origin, sex, or age between forty (40) and seventy (70), or to classify or refer for employment an individual on the basis of ***disability,*** [~~his~~] race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

(2) It is an unlawful practice for a licensing agency to refuse to license, or to bar or terminate from licensing an individual because of ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

Section 7. KRS 344.060 is amended to read as follows:

It is an unlawful practice for a labor organization:

(1) To exclude or to expel from its membership, or otherwise to discriminate against, a member or applicant for membership because of ***disability,*** [~~his~~] race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

(2) To limit, segregate, or classify its membership, or to classify or fail to refuse to refer for employment an individual, in any way which would deprive or tend to deprive an individual of employment opportunities, or would limit such employment opportunities or otherwise adversely affect ***the*** [~~his~~] status as an employee or as an applicant for employment, because of ***disability,*** [~~such individual's~~] race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

(3) To cause or attempt to cause an employer to discriminate against an individual in violation of this section.

Section 8. KRS 344.070 is amended to read as follows:

It is an unlawful practice for an employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs to discriminate against an individual because of ***disability,*** [~~his~~] race, color, religion, national origin, sex, or age between forty and sixty-five in admission to or employment in, any program established to provide apprenticeship or other training.

Section 9. KRS 344.080 is amended to read as follows:

It is an unlawful practice for an employer, labor organization, licensing agency, or employment agency to print or publish or cause to be printed or published a notice or advertisement relating to employment by such an employer or membership in or any classification or referral for employment by the employment or licensing agency, indicating any preference, limitation, specification, or discrimination, based on ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70), except that such a notice or advertisement may indicate a preference, limitation, or specification based on ***disability,*** religion, national origin, sex or age between forty (40) and seventy (70), when ***disability,*** religion, national origin, sex, or age between forty (40) and seventy (70), is a bona fide occupational qualification for employment.

Section 10. KRS 344.100 is amended to read as follows:

Notwithstanding any other provision of this chapter, it is not an unlawful practice for an employer to apply different standards of compensation, or different terms, conditions, or privileges of employment pursuant to a bona fide seniority or merit system, or a system which measures earnings by quantity or quality of production or to employees who work in different locations, provided that such differences are not the result of an intention to discriminate because of ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70), nor is it an unlawful practice for an employer to give and to act upon the results of any professionally developed ability test provided that such test, its administration or action upon the results is not designed, intended or used to discriminate because of ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70).

Section 11. KRS 344.110 is amended to read as follows:

(1) Nothing contained in this chapter requires an employer, employment agency, labor organization, or joint labor-management committee subject to this chapter to grant preferential treatment to an individual or to a group because of the ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70) of the individual or group on account of an imbalance which may exist with respect to the total number or percentage of persons of any ***disability,*** race, color, religion, national origin, sex, or age between forty (40) and seventy (70) employed by an employer, referred or classified for employment by an employment agency or labor organization, admitted to membership or classified by a labor organization, or admitted to, or employed in, an apprenticeship or other training program, in comparison with the total number or percentage of persons of ***disability,*** [~~such~~] race, color, religion, national origin, sex, or age between forty (40) and seventy (70) in the state or a community, section, or other area, or in the available workforce in the state or a community, section or other area.

(2) Nothing contained in this chapter regarding age prohibits:

(a) Minimum hiring ages otherwise provided by law.

(b) State compliance with federal regulations.

(c) Termination of the employment of any person who is unable to perform ***the job*** [~~his~~] duties.

(d) Any physical or medical examinations of applicants or employees which an employer requires to determine fitness for the job or position sought or held.

(e) An employer, labor organization or employment agency from observing the terms of a bona fide seniority system or any bona fide employee benefit plan such as a retirement, pension or insurance plan which is not a subterfuge to evade the purposes of this chapter, except that no such employee benefit plan shall excuse the failure to hire any individual.

Section 12. KRS 344.120 is amended to read as follows:

Except as otherwise provided in KRS 344.140 and 344.145, it is an unlawful practice for a person to deny an individual the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, as defined in KRS 344.130, on the ground of ***disability,*** race, color, religion, or national origin.

Section 13. KRS 344.140 is amended to read as follows:

It is an unlawful practice for a person, directly or indirectly, to publish, circulate, issue, display, or mail, or cause to be published, circulated, issued, displayed, or mailed, a written, printed, oral or visual communication, notice, or advertisement, which indicates that the goods, services, facilities, privileges, advantages, and accommodations of a place of public accommodation, resort or amusement, will be refused, withheld from, or denied an individual on account of ***disability,*** [~~his~~] race, color, religion, or national origin, or that the patronage of, or presence at, a place of public accommodation, resort or amusement, of an individual, on account of ***disability,*** [~~his~~] race, color, religion, or national origin is objectionable, unwelcome, unacceptable, or undesirable.

Section 14. KRS 344.200 is amended to read as follows:

(1) An individual claiming to be aggrieved by an unlawful practice ***other than a discriminatory housing practice***, a member of the commission, or the Attorney General may file with the commission a written sworn complaint stating that an unlawful practice has been committed, setting forth the facts upon which the complaint is based, and setting forth facts sufficient to enable the commission to identify the persons charged (hereinafter the respondent). The commission staff or a person designated pursuant to its rules shall promptly investigate the allegations of unlawful practice set forth in the complaint and shall within five (5) days furnish the respondent with a copy of the complaint. The complaint must be filed within one hundred eighty (180) days after the alleged unlawful practice occurs.

(2) The commission or an individual designated pursuant to its rules shall determine within thirty (30) days after the complaint has been filed whether there is probable cause to believe the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent

has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and shall furnish a copy of the order to the complainant, the respondent, the Attorney General, and such other public officers and persons as the commission deems proper.

(3) The complainant, within ten (10) days after receiving a copy of the order dismissing the complaint, may file with the commission an application for reconsideration of the order. Upon such application, the commission or an individual designated pursuant to its rules shall make a new determination within ten (10) days whether there is probable cause to believe that the respondent has engaged in an unlawful practice. If it is determined that there is no probable cause to believe that the respondent has engaged in an unlawful practice, the commission shall issue an order dismissing the complaint and furnishing a copy of the order to the complainant, the respondent, the Attorney General, and [~~such~~] other public officers and persons as the commission deems proper.

(4) If the staff determines, after investigation, or if the commission determines after the review provided for in subsection (3) of this section that there is probable cause to believe that the respondent has engaged in an unlawful practice, the commission staff shall endeavor to eliminate the alleged unlawful practice by conference, conciliation and persuasion. The terms of a conciliation agreement reached with a respondent may require him to refrain from the commission of unlawful discriminatory practices in the future and make such further provisions as may be agreed upon between the commission or its staff and the respondent. If a conciliation agreement is entered into, the commission shall issue and serve on the complainant an order stating its terms. A copy of the order shall be delivered to the respondent, the Attorney General, and such other public officers and persons as the commission deems proper. Except for the terms of the conciliation agreement, neither the commission nor any officer or employee thereof shall make public, without the written consent of the complainant and the respondent, information concerning efforts in a particular case to eliminate an unlawful practice by conference, conciliation, or persuasion, whether or not there is a determination of probable cause or a conciliation agreement.

(5) At the expiration of one (1) year from the date of a conciliation agreement, and at other times in its reasonable discretion, the commission staff may investigate whether the terms of the agreement have been and are being complied with by the respondent. Upon a finding that the terms of the agreement are not being complied with by the respondent, the commission shall take ***whatever*** [~~such~~] action [~~as~~] it deems appropriate to assure compliance.

(6) At any time after a complaint is filed, the commission may file an action in the Circuit Court in a county in which the subject of the complaint occurs, or in a county in which a respondent resides or has his principal place of business, seeking appropriate temporary relief against the respondent, pending final determination of proceedings [~~under KRS 344.160, 344.190 to 344.210, and 344.230 to 344.260,~~] including an order or decree restraining him from doing or procuring any act tending to render ineffectual any order the commission may enter with respect to the complaint. The court shall have power to grant [~~such~~] temporary relief or ***a*** restraining order as it deems just and proper.

(7) Insofar as they are not inconsistent or in conflict with the procedure and practice provided by this chapter, the Kentucky Rules of Civil Procedure will apply to proceedings under this chapter.

(8) Nothing in this section shall apply to any discriminatory housing practice.

Section 15. KRS 344.210 is amended to read as follows:

(1) Within sixty (60) days after a complaint ***other than a complaint alleging a discriminatory housing practice*** is filed, unless the commission has issued an order dismissing the complaint or stating the terms of a conciliation agreement or within thirty (30) days after an application for review is filed under subsection (3) of ***Section 14 of this Act*** [~~KRS 344.200~~], the commission shall serve on the respondent by certified mail a written notice, together with a copy of the complaint as it may have been amended, requiring the respondent to answer the allegations of the complaint at a hearing before one or more members of the commission or an individual designated pursuant to its rules, at a time and place specified in the notice. A copy of the notice shall be furnished to the complainant, the Attorney General, and such other public officers and persons as the commission deems proper.

(2) A member of the commission who filed the complaint or endeavored to eliminate the alleged unlawful practice by conference, conciliation or persuasion, shall not participate in the hearing or in the subsequent deliberation of the commission.

(3) The respondent shall file an answer with the commission by certified mail not less than twenty (20) days ***after receipt by the respondent of service under Section 14 of this Act.*** [~~before the hearing date~~]. The commission or the complainant may amend a complaint and the respondent may amend an answer at any

time prior to the issuance of an order based on the complaint, but no order shall be issued unless the respondent has had the opportunity of a hearing on the complaint or amendment on which the order is based.

(4) The case in support of the complaint shall be presented before the commission by one of its attorneys or staff. Efforts at conference, conciliation, and persuasion shall not be received in evidence.

(5) A respondent who has filed an answer or whose default in answering has been set aside for good cause shown may appear at the hearing, may examine and cross-examine witnesses and the complainant, and may offer evidence. The complainant, the Attorney General, and, in the discretion of the commission, any person may intervene, examine and cross-examine witnesses, and present evidence.

(6) If the respondent fails to answer the complaint, the commission may enter his default. Unless the default is set aside for good cause shown, the hearing may proceed on the evidence in support of the complaint.

(7) Testimony taken at the hearing shall be under oath and transcribed. After the hearing, in its discretion, the commission upon notice to all parties with an opportunity to be present may take further evidence or hear argument.

(8) Nothing in this section shall apply to a discriminatory housing practice.

SECTION 16. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) (a) 1. An aggrieved person may, not later than one (1) year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the commission alleging a discriminatory housing practice. All other complaints of an alleged discrimination practice must be filed pursuant to the procedure described in Section 14 of this Act. The commission, on its own initiative, or the Attorney General may also file a complaint alleging a discriminatory housing practice.

2. The complaint shall be in writing and shall contain the information and be in a form required by the commission.

3. The commission may also investigate housing practices to determine whether a complaint should be brought under this section.

(b) Upon the filing of the discriminatory housing practice complaint:

1. The commission shall within five (5) days serve written notice upon the aggrieved person acknowledging the filing and advising the aggrieved person of the time limits and choice of forums provided in Section 23 of this Act.

2. The commission shall, not later than ten (10) days after the filing or the identification of an additional respondent under subsection (2) of this section, serve on the respondent a written notice identifying the alleged discriminatory practice and advising the respondent of the procedural rights and obligations of respondents under this chapter, together with a copy of the original complaint;

3. Each respondent may file, not later than ten (10) days after receipt of notice from the commission, an answer to the complaint; and

4. The commission shall commence an investigation of the alleged discriminatory housing practice within thirty (30) days of filing the complaint and complete the investigation within one hundred (100) days after the filing of the complaint, unless it is impracticable to do so.

(c) If the commission is unable to complete the investigation within one hundred (100) days after the filing of the complaint, the commission shall notify the complainant and respondent in writing of the reasons for not doing so.

(d) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

(2) (a) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under subsection (1) of this section, to that person, from the commission.

(b) The notice, in addition to meeting the requirements of subsection (1) of this section, shall explain the basis for the commission's belief that the person to whom the notice is addressed is properly joined as a respondent.

SECTION 17. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) During the period beginning with the filing of a discriminatory housing practice complaint and ending with the filing of a charge or a dismissal by the commission, the commission shall, to the extent feasible, engage in conciliation with respect to a complaint.

(2) A conciliation agreement arising out of the conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the commission.

(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the commission determines that disclosure is not required to further the purposes of this chapter.

(5) (a) At the end of each investigation under this section, the commission shall prepare a final investigative report containing:

1. The names and dates of contacts with witnesses;

2. A summary and the dates of correspondence and other contacts with the complainant and the respondent;

3. A summary description of other pertinent records;

4. A summary of witness statements; and

5. Answers to interrogatories.

(b) A final report under this paragraph may be amended if additional evidence is later discovered.

SECTION 18. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) When the commission has probable cause to believe that a respondent has breached a conciliation agreement arising from a discriminatory housing practice, the commission shall take whatever action it deems appropriate including filing an action in Circuit Court pursuant to Section 31 of this Act.

(2) A civil action for breach shall be commenced within ninety (90) days of the commission receiving notice of the breach.

SECTION 19. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) Nothing said or done in the course of conciliation of a discriminatory housing practice may be made public or used as evidence in a subsequent proceeding under this chapter without the written consent of the persons concerned.

(2) Notwithstanding subsection (1) of this section, the commission shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the commission's investigation of a discriminatory housing practice, information derived from the investigation and any final investigative report relating to that investigation.

SECTION 20. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) If the commission concludes at any time following the filing of a discriminatory housing complaint that prompt judicial action is necessary to carry out the purposes of this chapter, the commission may initiate a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section.

(2) The commission shall promptly commence and maintain an action.

(3) Any restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Kentucky Rules of Civil Procedure.

(4) The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under Section 16, 17, 23, 24, or 25 of this Act.

SECTION 21. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall determine, based on the facts, whether probable cause exists to believe that a discriminatory housing practice made unlawful under this chapter has occurred or is about to occur.

(2) The commission shall make the determination under subsection (1) of this section not later than the one hundredth day after the date a complaint is filed unless:

(a) It is impracticable to make the determination; or

(b) The commission has approved a conciliation agreement relating to the discriminatory housing complaint.

(3) If it is impracticable to make the determination within the time period provided by subsection (2) of this section, the commission shall notify the complainant and respondent in writing of the reasons for the delay.

(4) If the commission determines that probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall, except as provided in subsection (6) of this section, immediately issue a charge on behalf of the aggrieved person for further proceeding under Section 23 of this Act.

(5) The charge:

(a) Shall consist of a concise statement of the facts upon which the commission has found probable cause to believe that a discriminatory housing practice has occurred or is about to occur;

(b) Shall be based on the final investigative report; and

(c) Need not be limited to the facts or grounds alleged in the complaint filed under Section 16 of this Act.

(6) If the commission determines that the matter involves the legality of any state or local zoning or other land use law or ordinance, the commission shall follow the procedures described in Section 31 of this Act.

(7) If the commission determines that no probable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the commission shall promptly dismiss the complaint. The commission shall make public disclosure of each dismissal at the request of the respondent.

(8) The commission may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a federal or state law seeking relief with respect to that discriminatory housing practice.

SECTION 22. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

After the commission issues a disciminatory housing charge under Section 21 of this Act, the commission shall cause a copy thereof, together with information as to how to make an election of an administrative or judicial choice of forum under Section 23 of this Act, and the effect of such election, to be served;

(1) On each respondent named in the charge, together with a written notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

(2) On each aggrieved person on whose behalf the discriminatory housing complaint was filed.

SECTION 23. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

When a discriminatory housing charge is filed under Section 21 of this Act, a complainant, a respondent, or the aggrieved person on whose behalf the complaint is filed, may elect to have the claims asserted in that charge decided in a civil action under Section 32 of this Act, in lieu of an administrative hearing before the commission under Section 24 of this Act.

(1) The election shall be made not later than twenty (20) days after the receipt by the electing person of service under Section 22 of this Act, from the commission or, in the case of the commission, not later than twenty (20) days after service to the respondent and complainant.

(2) The person making the election shall give written notice of doing so to the commission and to all other complainants and respondents to whom the charge relates.

SECTION 24. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) If a timely election of a judicial or administrative remedy is not made under Section 23 of this Act, with respect to a discriminatory housing charge, the commission shall provide an opportunity for an administrative hearing before one (1) or more members on the record with respect to the charge issued under Section 21 of this Act.

(2) At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas. Any aggrieved person may intervene as a party in the proceeding. The Kentucky Rules of Civil Procedure, insofar as they are not inconsistent or in conflict with the procedure and practice provided by this chapter, shall apply to the presentation of evidence in the hearing as they would in a civil action in a Circuit Court.

(3) Discovery in administrative proceedings under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

(4) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

(5) Any resolution of a discriminatory housing charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the discriminatory housing charge is issued.

(6) The commission may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under a state or federal law, seeking relief with respect to that discriminatory housing practice.

SECTION 25. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall commence a hearing no later than one hundred twenty (120) days following the issuance of the discriminatory housing practice charge, unless it is impracticable to do so. If the commission is unable to commence the hearing within one hundred twenty (120) days after the issuance of the discriminatory housing charge, the commission shall notify the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so and provide a new date for the hearing.

(2) The commission shall make findings of fact and conclusions of law within sixty (60) days after the filings by the parties of conclusions of law, findings of fact, and briefs at the end of the hearing under this section, unless it is impracticable to do so. If the commission is unable to make findings of fact and conclusions of law within the period, or any succeeding sixty (60) day period thereafter, the commission shall notify the aggrieved person on whose behalf the discriminatory housing charge was filed, and the respondent, in writing, of the reasons for not doing so.

(3) If the commission finds that a respondent has engaged or is about to engage in a discriminatory housing practice, the commission shall promptly issue an order for appropriate relief, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. The order may, to vindicate the public interest, assess a civil penalty against the respondent:

(a) In an amount not exceeding ten thousand dollars ($10,000) if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

(b) In an amount not exceeding twenty-five thousand dollars ($25,000) if the respondent has been adjudged to have committed one (1) other discriminatory housing practice during the five (5) year period ending on the date of the filing of this charge; and

(c) In an amount not exceeding fifty thousand dollars ($50,000) if the respondent has been adjudged to have committed two (2) or more discriminatory housing practices during the seven (7) year period ending on the date of the filing of this charge; except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in paragraphs (b) or (c) of this subsection may be imposed without regard to the period of time within which any subsequent discriminatory housing practice occurred.

(4) No order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of the order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the discriminatory housing charge.

(5) If the commission finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, the commission shall enter an order dismissing the charge. The commission shall make public disclosure of the dismissal.

(6) The commission shall cause the findings of act and conclusions of law made with respect to any final order for relief for a discriminatory housing practice, together with a copy of the order, to be served on each aggrieved person and each respondent in the proceeding.

Section 26. KRS 344.240 is amended to read as follows:

(1) ***Any*** [~~A~~] complainant, respondent, or intervenor aggrieved by an order of the commission, including an order dismissing ***any*** [~~a~~] complaint or stating the terms of a conciliation agreement, may obtain judicial review, and the commission may obtain an order of the court for enforcement of its order, in a proceeding brought in the Circuit Court in a county in which the alleged unlawful practice which is the subject of the order or complaint occurs or in which a respondent resides or has his principal place of business.

(2) The proceeding for review or enforcement is initiated by filing a complaint in the court. Copies of the complaint shall be served upon all parties of record. Within thirty (30) days after the service of the complaint upon the commission or its filing by the commission, or within such further time as the court may allow, the commission shall transmit to the court the original or a certified copy of the entire record upon which the order is based, including a transcript of testimony, which need not be printed. By stipulation of all parties to the review proceeding, the record may be shortened. The findings of fact of the commission shall be conclusive unless clearly erroneous in view of the probative and substantial evidence on the whole record. The court shall have power to grant such temporary relief or restraining order as it deems just, and to enter an order enforcing, modifying and enforcing as modified, or setting aside in whole or in part the order of the commission, or remanding the case to the commission for further proceedings.

(3) ***Except for a discriminatory housing practice,*** if the commission has failed to schedule a hearing in accordance with subsection (1) of ***Section 15 of this Act*** [~~KRS 344.210~~] or has failed to issue an order within one hundred eighty (180) days after the complaint is filed, the complainant, respondent, Attorney General, or an intervenor may petition the Circuit Court in a county in which the alleged unlawful practice set forth in the complaint occurs or in which the petitioner resides or has his principal place of business for an order directing the commission to take such action. The court shall follow the procedure set forth in subsection (2) so far as applicable.

(4) The court shall not consider any matter not considered by, nor any objection not raised before, the commission, unless the failure of a party to present such matter to or raise such objection before the commission is excused because of good cause shown. A party may move the court to remand the case to the commission in the interests of justice for the purpose of adducing additional specified and material evidence and seeking findings thereon, provided he shows good cause for the failure to adduce such evidence before the commission.

(5) The jurisdiction of the Circuit Court shall be exclusive and its final judgment or decree shall be subject to review by the Court of Appeals as provided by the Rules of Civil Procedure. The commission's copy of the testimony shall be available to all parties for examination without cost during business hours at the commission's office in Frankfort.

(6) A proceeding under this section must be initiated within thirty (30) days after a copy of the order of the commission is received, unless the commission is the petitioner or the petition is filed under subsection (3). If no proceeding is so initiated, the commission may obtain a decree of the court for enforcement of its order upon showing that a copy of the petition for enforcement was served on the respondent.

(7) If before the expiration of sixty (60) days after the date of the commission order is entered for a discriminatory housing practice and no petition for review has been filed under subsection (1) of this section, any person entitled to under the discriminatory housing practice order may petition for a decree enforcing the order in the Circuit Court for the county in which the discriminatory housing practice is alleged to have occurred.

(8) Except for subsection (3) of this section, all provisions in this section shall apply to orders issued in a discriminatory housing practice proceeding.

SECTION 27. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) An aggrieved person may file a civil action in an appropriate Circuit Court not later than five (5) years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into as the result of an alleged discriminatory housing practice, whichever occurs last, to obtain appropriate relief with respect to the discriminatory housing practice or breach.

(2) The computation of the five (5) year period shall not include any time during which an administrative proceeding under this chapter is pending with respect to a complaint or charge of an alleged discriminatory housing practice. This subsection does not apply to actions arising from a breach of a conciliation agreement entered into as a result of an alleged discriminatory housing practice.

(3) An aggrieved person may file a civil action under this section whether or not a complaint has been filed under Section 16 of this Act, and without regard to the status of any such complaint, but:

(a) If the commission has obtained a conciliation agreement with the consent of an aggrieved person, the aggrieved person may not file an action under this section with respect to the alleged discriminatory housing practice which forms the basis for the complaint except for the purposes of enforcing the terms of the conciliation agreement; and

(b) An aggrieved person may not file a civil action under this section with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the commission if the commission has commenced a hearing.

SECTION 28. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

Upon application by a person alleging a discriminatory housing practice or a person against whom a discriminatory housing practice is alleged, the Circuit Court may:

(1) Appoint an attorney for the person; or

(2) Authorize the commencement or continuation of a civil action under Section 27 of this Act, without the payment of fees, costs, or security, if in the opinion of the court the person is financially unable to bear the cost of such action.

Section 29. KRS 344.260 is amended to read as follows:

(1) Upon written application to the commission a party to ***any administrative*** [a] proceeding is entitled as of right to the issue of subpoenas in the name of the commission by an individual designated pursuant to its rules requiring attendance and the giving of testimony and the production of documents. A subpoena so issued shall show on its face the name and address of the party at whose request the subpoena was issued. On petition of the individual to whom the subpoena is directed and notice to the requesting party, the commission or an individual designated pursuant to its rules may vacate or modify the subpoena.

(2) Depositions of witnesses may be taken as prescribed by the Rules of Civil Procedure.

(3) If a person fails to comply with a subpoena, the Circuit Court for the county in which the person is found, resides, or has his principal place of business, upon application of the commission or the party requesting the subpoena, may issue an order requiring compliance. In any proceeding brought under this section, the court may modify or set aside the subpoena.

(4) Witnesses summoned by a subpoena in a discriminatory housing proceeding shall be entitled to the same witness and mileage fees as witnesses in proceedings in Circuit Court.

SECTION 30. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) In a civil action under Section 27 of this Act, if the Circuit Court finds that a discriminatory housing practice has occurred or is about to occur, the Circuit Court may award to the plaintiff actual and punitive damages, and subject to subsection (3) of this section, may grant as relief, as the court deems appropriate any permanent or temporary injunction, restraining order, or other order including an order enjoining the defendant from engaging in the practice or ordering affirmative action as appropriate.

(2) In a civil action under Section 26, 27, or 31 of this Act, the court, in its discretion, may award the prevailing complainant, a reasonable attorneys' fee and costs. The court, in its discretion, may award the prevailing respondent a reasonable attorneys' fee and costs if the respondent establishes that the complaint upon which the action was based was brought in bad faith. Whether a party has committed bad faith shall be determined in accordance with Rule 11 of the Kentucky Rules of Civil Procedure. The state shall not be liable in any event for fees and costs.

(3) However, no relief provided under this section shall effect any contract, sale, encumbrance, or lease consummated before the granting of that relief, and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of the complaint of a discriminatory housing practice complaint with the commission or the filing of a civil action.

SECTION 31. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) The commission or the Attorney General may file a civil action in Circuit Court for appropriate relief if the commission or Attorney General has probable cause to believe that:

(a) Any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any housing right granted by this chapter; or

(b) Any group of persons has been denied any housing right granted by this chapter and the denial raises an issue of general public importance; or

(c) Any state or local zoning or land use law is a discriminatory housing practice. The action shall be brought within eighteen (18) months of the occurrence or termination of the alleged discriminatory practice; or

(d) A conciliation agreement has been breached.

The action shall be brought within ninety (90) days of the commission or Attorney General receiving notice of the breach.

(2) In an action under this section the court:

(a) May award preventive relief, including a permanent or temporary injunction, restraining order, or other order against the person responsible for a violation to assure the full enjoyment of the rights granted by this chapter;

(b) May award other appropriate relief, including compensatory and punitive damages;

(c) May award a reasonable attorney's fee and costs to the prevailing party to the same extent allowed in Section 30 of this Act. The state shall not be liable in any event for fees and costs; and

(d) May, to vindicate the public interest, assess a civil penalty against the respondent in an amount that does not exceed:

1. Fifty thousand dollars ($50,000) for a first violation; and

2. One hundred thousand dollars ($100,000) for a second or subsequent violation.

(e) A person may intervene in an action under this section if the person is:

1. An aggrieved person to the discriminatory housing practice; or

2. A party to a conciliation agreement concerning the discriminatory housing practice.

SECTION 32. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) If an election is made under Section 23 of this Act for a judicial rather than an administrative proceeding, the commission shall not later than thirty (30) days after the election is made, commence and maintain a civil action on behalf of the aggrieved person in the appropriate Circuit Court seeking relief under this section.

(2) Any aggrieved person with respect to the issues to be determined in a civil action under this section may intervene as of right in that civil action.

(3) If the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief under Section 30 of this Act which a court could grant with respect to a discriminatory housing practice in a civil action under Section 27 of this Act. Any relief granted under Section 30 of this Act that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under Section 27 of this Act shall also accrue to that aggrieved person in a civil action under this section. If monetary relief is sought for the benefit of an aggrieved person who does not intervene in the

civil action, the court shall not award relief if that aggrieved person has not complied with discovery orders entered by the court.

SECTION 33. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

(1) In any administrative proceeding brought under Section 24 or 25 of this Act or any court proceeding arising therefrom, including actions described in Section 26 of this Act or any civil action, the commission or the court, as the case may be, upon application of either party, and in its discretion, may:

(a) Appoint an attorney for the person; or

(b) Award a reasonable attorneys' fee and costs to the prevailing party to the same extent allowed in Section 30 of this Act, or both. The state shall not be liable in any event for fees and costs.

(2) The state through the commission's attorney or the Attorney General shall maintain any civil action on behalf of the complainant or aggrieved party.

(3) Where the parties to an alleged discriminatory housing practice have elected an administrative determination rather than a civil adjudication, the commission staff attorney shall represent the complainant or aggrieved party before the commission.

Section 34. KRS 344.280 is amended to read as follows:

It shall be an unlawful practice for a person, or for two (2) or more persons to conspire:

(1) To retaliate or discriminate in any manner against a person because he has opposed a practice declared unlawful by this chapter, or because he has made a charge, filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding, or hearing under this chapter; or

(2) To aid, abet, incite, compel, or coerce a person to engage in any of the acts or practices declared unlawful by this chapter; or

(3) To obstruct or prevent a person from complying with the provisions of this chapter or any order issued thereunder; [~~or~~]

(4) To resist, prevent, impede, or interfere with the commission, or any of its members or representatives, in the lawful performance of duty under this chapter***; or***

(5) To coerce, intimidate, threaten, or interfere with any person in the exercise or enjoyment of, or on account of his having exercised or engaged, or on account of his having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by Section 36, 39, 40, 41, or 42 of this Act.

Section 35. KRS 344.300 is amended to read as follows:

(1) Cities and counties are authorized to adopt and enforce ordinances, orders, and resolutions prohibiting all forms of discrimination, including discrimination on the basis of race, color, religion, ***disability, familial status,*** or national origin, sex, or age, and to prescribe penalties for violations thereof, such penalties being in addition to the remedial orders and enforcement herein authorized.

(2) Cities and counties may adopt and enforce ordinances, orders, and resolutions prohibiting discrimination; no ordinance, order or resolution shall attempt to exempt more transactions from its coverage than are exempted by ***Sections 37 and 38 of this Act*** [~~KRS 344.365~~].

Section 36. KRS 344.360 is amended to read as follows:

It is an unlawful ***housing*** practice for a real estate operator, or for a real estate broker, real estate salesman, or ***any person*** [~~an individual~~] employed by or acting on behalf of any of these:

(1) To refuse to sell, exchange, rent or lease or otherwise deny to or withhold real property from ***any person*** [~~an individual~~] because of [~~his~~] race, color, religion, ***sex, familial status, disability,*** or national origin;

(2) To discriminate against ***any person*** [~~an individual~~] because of [~~his~~] race, color, religion, ***sex, familial status, disability,*** or national origin in the terms, conditions, or privileges of the sale, exchange, rental or lease of real property or in the furnishing of facilities or services in connection therewith;

(3) To refuse to receive or transmit a bona fide offer to purchase, rent or lease real property from ***any person*** [~~an individual~~] because of [~~his~~] race, color, religion, ***sex, familial status, disability,*** or national origin;

(4) To refuse to negotiate for the sale, rental or lease of real property to ***any person*** [~~an individual~~] because of [~~his~~] race, color, religion, ***sex, familial status, disability,*** or national origin;

(5) To represent to ***any person*** [~~an individual~~] that real property is not available for inspection, sale, rental, or lease when [~~in fact~~] it is so available, or to refuse to permit ***any person*** [~~an individual~~] to inspect real property because of his race, color, religion, ***sex, familial status, disability,*** or national origin;

(6) To ***make,*** print, circulate, post or mail or cause to be printed, circulated, posted or mailed an advertisement or sign, or to use a form of application for the purchase, rental or lease of real property, or to make a record of inquiry in connection with the prospective purchase, rental or lease of real property, which indicates, directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, ***sex, familial status, disability,*** or national origin or an intent to make such a limitation, specification, or discrimination;

(7) To offer, solicit, accept, use or retain a listing of real property for sale, rental or lease with the understanding that ***any person*** [~~an individual~~] may be discriminated against in the sale, rental or lease of that real property or in the furnishing of facilities or services in connection therewith because of his race, color, religion, ***sex, familial status, disability,*** national origin; [~~or~~]

(8) To otherwise deny to or withhold real property from ***any person*** [~~an individual~~] because of his race, color, religion, ***sex, familial status, disability,*** or national origin***;***

(9) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a housing accommodation to any buyer or renter because of a handicap of:

(a) That buyer or renter;

(b) A person residing in or intending to reside in that housing accommodation after it is so sold, rented, or made available; or

(c) Any person associated with that buyer or renter; or

(10) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such housing accommodation, because of a disability of:

(a) That person; or

(b) A person residing in or intending to reside in that housing accommodation after it is sold, rented, or made available; or

(c) Any person associated with that person.

(11) For purposes of this section, discrimination includes:

(a) A refusal to permit, at the expense of the disabled person, reasonable modifications of existing premises occupied or to be occupied by a person, if the modifications may be necessary to afford the person full enjoyment of the premises; except that, in the case of a rental, the landlord may, where it is reasonable to do so, condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.

(b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when the accommodations may be necessary to afford the person equal opportunity to use and enjoy a housing accommodation; or

(c) In connection with the design and construction of covered multifamily housing accommodations for first occupancy after July 15, 1992, a failure to design and construct those housing accommodations in a manner ensuring that they have at least one (1) entrance on an accessible route unless impractical to do so because of the terrain or unusual characteristics of the site. Housing accommodations with a building entrance on an accessible route shall comply with the following requirements:

1. The public use and common use portions of the housing accommodations shall be readily accessible to and usable by disabled persons;

2. All the doors designed to allow passage into and within all premises within the housing accommodations shall be sufficiently wide to allow passage by disabled persons in wheelchairs; and

3. All premises within the housing accommodations shall contain the following features of adaptive design:

a. An accessible route into and through the housing accommodation;

b. Light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

c. Reinforcements in bathroom walls to allow later installation of grab bars; and

d. Usable kitchens and bathrooms so that an individual in a wheelchair can maneuver about the space.

(12) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically disabled persons, (commonly cited as "ANSI A117.1 - 1986") suffices to satisfy the requirements of subsection (11)(c)3. of this section.

(13) As used in subsection (11) of this section, the term "covered multifamily housing accommodation" means:

(a) Buildings consisting of four (4) or more units if the buildings have one (1) or more elevators; and

(b) Ground floor units in other buildings consisting of two (2) or more units.

(14) Nothing in this section requires that a housing accommodation be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.

Section 37. KRS 344.362 is amended to read as follows:

[~~(1) It shall be an unlawful practice for any person to engage in any of the activities made an unlawful practice by KRS 344.360 because of an individual's sex.~~

~~(2)~~] Nothing in [~~this~~] Section ***36 of this Act*** shall apply to:

(1)[~~(a)~~] The YMCA, YWCA and similar type single sex dormitory rental properties, including, but not limited to, those dormitories operated by institutions of higher education;

(2)[~~(b)~~] A landlord who refused to rent to an unmarried couple of opposite sex; or

[~~(c) A landlord who chooses to rent only to men or only to women; provided that the landlord engages in the rental to no more than ten (10) persons or of no more than ten (10) self-contained units in an owner occupied housing accommodation; or~~]

(3)[~~(d)~~] Rooms or rental units where tenants would be required to share common bath or kitchen facilities.

(4) To any housing accommodation where it can be demonstrated that gender-based exclusions are necessary for reasons of personal modesty or privacy.

Section 38. KRS 344.365 is amended to read as follows:

(1) Nothing in ***Section 36 of this Act*** [~~KRS 344.360~~] shall apply:

(a) To the rental of a housing accommodation in a building which contains housing accommodations for not more than two ***(2)*** families living independently of each other, if the owner or a member of his family resides in one of the housing accommodations;

(b) To the rental of one (1) room or one (1) rooming unit in a housing accommodation by an individual if he or a member of his family resides therein;

(c) To a religious [~~institution, or to an~~] organization, ***association, or society, or any nonprofit institution or organization*** operated [~~for charitable or educational purposes, which is operated~~], supervised, or controlled by ***or in conjunction with*** a religious ***organization*** [~~corporation~~], association or society, ***which limits*** [~~to the~~

~~extent that the religious corporation, association, or society, limits, or gives preferences in,~~] the sale, lease, rental, assignment, or sublease of ***a housing accommodation which it owns or operates for other than commercial purpose to persons of the same religion, or from giving preference to those persons, unless membership in the religion is restricted on account of race, color, or national origin;*** [~~real property to individuals of the same religion, or makes a selection of buyers, tenants, lessees, assignees, or sublessees, that is calculated by such religious corporation, association, or society to promote the religious principles for which it is established or maintained.~~]

(d)[~~(2)~~] ***To*** [~~Nothing in this chapter shall be construed to affect the legal rights of~~] a private individual homeowner ***disposing*** [~~to dispose~~] of his property through private sale without the aid of any real estate operator, broker or salesman and without advertising or public display ***except that attorneys, escrow agents, abstractors, title companies, and other professional assistance may be utilized as necessary to perfect or transfer the title.***

(2)[~~(3)~~] Nothing in this chapter shall require a real estate operator to negotiate with any individual who has not shown evidence of financial ability to consummate the purchase or rental of a housing accommodation.

(3) Nothing in this chapter shall limit the applicability of any reasonable local, state, or federal restrictions regarding the maximum number of occupants permitted to occupy a housing accommodation. No provision in this chapter regarding familial status shall apply with respect to "housing for older persons," as defined in the Federal Fair Housing Act, 42 U.S.C. 3607.

(4) Nothing in this section prohibits conduct against a person because the person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in Section 102 of the Controlled Substances Act (21 U.S.C. 802) or KRS Chapter 218A.

SECTION 39. A NEW SECTION OF KRS CHAPTER 344 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful to deny any person access to, or membership or participation in, any multiple listing service, real estate brokers' organization, or other service, organization, or facility relating to the business of selling or renting housing accommodations, or to discriminate against a person in the terms or conditions of access, membership, or participation, on account of race, color, religion, sex, disability, familial status, or national origin.

Section 40. KRS 344.367 is amended to read as follows:

It is an unlawful practice for a person in the business of insuring against hazards to refuse to enter into, or discriminate in the terms, conditions, or privileges of, a contract of insurance against hazards to a housing accommodation because of the race, color, religion, national origin, ***familial status, disability,*** or sex of persons owning, or residing in or near the housing accommodation.

Section 41. KRS 344.370 is amended to read as follows:

It is an unlawful practice for a financial institution or ***for any person or other entity whose business includes engaging in real estate-related transactions*** [~~an individual employed by or acting on behalf of a financial institution~~]:

(1) To discriminate against an individual because of the race, color, religion, or national origin, ***familial status, disability,*** sex, or age of the individual or the present or prospective owner, tenant or occupant of the real property or of a member, stockholder, director, officer, employee, or representative of any of these, in the granting, withholding, extending, modifying or renewing, the rates, terms, conditions, privileges or other provisions of financial assistance or in the extension of services in connection therewith; [~~or~~]

(2) To use a form of application for financial assistance or to make or keep a record or inquiry in connection with applications for financial assistance which indicate directly or indirectly, a limitation, specification, or discrimination as to race, color, religion, ***familial status, disability,*** or national origin or an intent to make such a limitation, specification, or discrimination***;***[~~.~~]

(3) To discriminate by refusing to give full recognition, because of sex, to the income of each spouse or the total income and expenses of both spouses where both spouses become or are prepared to become joint or several obligors in real estate transactions***; or***

(4) As used in this section, the term "real estate-related transaction" means any of the following:

(a) The making or purchasing of loans or providing other financial assistance;

1. For purchasing, constructing, improving, repairing, or maintaining a housing accommodation; or

2. Secured by real estate.

(b) The selling, brokering, or appraising of real property except that a person engaged in the business of furnishing appraisals of real property may take into consideration factors other than race, color, religion, national origin, sex, disability, or familial status.

Section 42. KRS 344.380 is amended to read as follows:

It is an unlawful practice for a real estate operator, a real estate broker, a real estate salesman, a financial institution, an employee of any of these, or any other person, for the purpose of inducing a real estate transaction from which ***a person*** [~~he~~] may benefit financially:

(1) To represent that a change has occurred or will or may occur in the composition with respect to race, color, religion***, sex, disability, familial status,*** or national origin of the owners or occupants in the block, neighborhood, or area in which the real property is located; [~~or~~]

(2) To represent that this change will or may result in the lowering of property values, an increase in criminal or antisocial behavior, or a decline in the quality of schools in the block, neighborhood, or area in which the real property is located***; or***

(3) To induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, sex, disability, familial status, or national origin.

Section 43. KRS 344.385 is amended to read as follows:

(1) Where a real estate broker or a real estate salesman has failed to comply with an order issued by the commission or has been found to have committed an unfair housing practice in violation of ***Section 42 of this Act*** [~~KRS 344.380~~], the commission shall notify in writing the Real Estate Commission of the Commonwealth of Kentucky of ***the*** [~~said~~] failure to comply or violation.

(2) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to licensing or regulation by a state or federal government agency, the commission shall, not later than thirty (30) days after the date of the issuance of the order, or if the order is judicially reviewed, thirty (30) days after the order is in substance affirmed upon review:

(a) Send copies of the finding of fact, conclusions of law, and the order to that governmental agency; and

(b) Recommend to that governmental agency appropriate disciplinary action, including, where appropriate, the suspension or revocation of the license of the respondent.

Section 44. KRS 207.130 is amended to read as follows:

As used in KRS 207.140 to 207.240 unless the context otherwise requires:

(1) "Persons" means one or more individuals, partnerships, municipalities, the state, or other political subdivisions within the state, associations, labor organizations, or corporations.

(2) "Physical handicap" means the physical condition of a person whether congenital or acquired, which constitutes a substantial disability to that person and is demonstrable by medically accepted clinical or laboratory diagnostic techniques.

(3) "Employer" means a person or governmental unit or officer in this state having in his or its employ eight or more individuals; and any person acting in the interest of an employer, directly or indirectly.

(4) "Labor organization" means a labor organization and an agent of such an organization, and includes an organization of any kind, an agency or employee representation committee, group, association, or plan so engaged in which employees participate and which exists for the purpose, in whole or in part, of dealing

with employers concerning grievances, labor disputes, wages, rates of pay, hours, or other terms or conditions of employment, and a conference, general committee, joint system or board, or joint council so engaged which is subordinate to a national or international labor organization.

[~~(5) "Property" means any building, structure, or portion thereof which is occupied as, or designed or intended for occupancy, as a residence, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure, or portion thereof.~~

~~(6) "To rent" includes to lease, to sublease, to furnish as compensation, to let and otherwise grant for a consideration the right to occupy premises not owned by the occupant.~~]

(5)[~~(7)~~] "Unfair employment practice" means an act that is prohibited under KRS 207.150, 207.160 or 207.170.

[~~(8) "Unfair housing practice" means an act that is prohibited under KRS 207.180 or 207.190.~~]

(6)[~~(9)~~] "Commissioner" shall mean the commissioner of the Department of Workplace Standards, under the direction and supervision of the secretary of labor.

(7)[~~(10)~~] "Department" shall mean the Department of Workplace Standards in the Labor Cabinet.

Section 45. The following KRS sections are repealed:

207.180 Prohibited discriminatory acts related to housing.

207.190 Prohibited discriminatory acts related to loans.

Floor Amendments (Continued)

Floor Title Amendment to **HB 58**, by Representative Stumbo:

Amend printed copy of **HB 58** by changing the title to read as follows: "AN ACT relating to hunting and fishing."

Floor Amendment No. 2 to **HB 58**, by Representative Stumbo:

Amend printed copy of **HB 58** on page 4, below line 13, to add the following:

"Section 2. KRS 525.125 is amended to read as follows:

(1) The following persons are guilty of cruelty to animals in the first degree whenever a four-legged animal is caused to fight for pleasure or profit:

(a) The owner of the animal;

(b) The owner of the property on which the fight is conducted if the owner knows of the fight;

(c) Anyone who participates in the organization of the fight.

(2) ***Activities of animals engaged in hunting, field trials, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.***

(3)[~~(2)~~] Cruelty to animals in the first degree is a Class D felony.

Section 3. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit, (including, but not limited to being a spectator or vendor at an event where a four-legged animal is caused to fight for pleasure or profit) mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal.

(2) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For any other purpose authorized by law.

(3) ***Activities of animals engaged in hunting, field trials, and other activities authorized either by a hunting license or by the Department of Fish and Wildlife shall not constitute a violation of this section.***

(4)[~~(3)~~] Cruelty to animals in the second degree is a Class A misdemeanor."

Floor Amendment No. 1 to **SB 35**, by Representative Scorsone:

Amend printed copy of **SB 35/GA** on page 13, after line 23, by inserting the following:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 7B IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the Rose-Blandford Long-Term Policy Act." and renumbering the subsequent section accordingly.

Motions, Petitions and Communications (Continued)

Representative K. Harper moved that **HB 32** be withdrawn. Agreed.

Representative Brown moved that **HB 736** and **HB 752** be withdrawn. Agreed.

Representative Deskins moved that **HB 918** be withdrawn. Agreed.

Representative Lewis moved that **HB 879** be withdrawn. Agreed.

Representative Farley moved the adoption of the following Legislative Citation No. 34. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Melba White, President, Cora Spann, 1st Vice President, Vivian Malloy, 2nd Vice President, Fran Hood, 3rd Vice President, Mary Tatterson, Secretary, Kenna Dunn, Treasurer, Teddy Collins, Tail Twister, Director, Margaret Yancey, Lion Tamer, Harriet Lumbard, Membership Chairman, Helen Fritts, Director, Madge Simms, Director, Thelma Knox, Director and a Charter member of the Ashland Area Lion's Club. As the first Lioness Club to convert to an all female Lion's Club, you are serving as role models for other organizations who serve their communities. Your dedication and faithful service to those projects which benefit the people of Ashland is most exemplary. Through your participation in civic programs, your community will be a better place in which to live.

This prestigious body joins Representative Don Farley in recognizing your achievement of chartering the all female Ashland Area Lion's club. We extend best wishes for success.

Representative Farley moved the adoption of the following Legislative Citation No. 35. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Helen Barber, Ruth Click, Dee Cumbo, Sally Devania, Rose Ellen Eppenstein, Carretta Ford, Carol Foster, Gladys Franz, Allene Gillum, Bertha Goodwin, Alyene Jarrell, Katie Knight, Edie Maddox, Bess McIntosh, Cathleen Peterson, Norma Peterson, Deanna Roy, Lilliam Russell, Denise Sexton, Mayme Steele, Becky Stewart, Ann Wiseman, as a Charter member of the Ashland Area Lion's Club. As the first Lioness Club to convert to an all female Lion's Club, you are serving as role models for other organizations who serve their communities. Your dedication and faithful service to those projects which benefit the people of Ashland is most exemplary. Through your participation in civic programs, your community will be a better place in which to live.

This prestigious body joins Representative Don Farley in recognizing your achievement of chartering the all female Ashland Area Lion's club. We extend best wishes for success.

Representative Farley moved the adoption of the following Legislative Citation No. 43. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds the Charter Member's of the Ashland Area Lion's Club as the first Lioness Club to convert to an all female Lion's Club, you are serving as role models for other organizations who serve their communities. Your dedication and faithful service to those projects which benefit the people of Ashland is most exemplary. Through your participation in civic programs, your community will be a better place in which to live.

This prestigious body joins Representative Don Farley in recognizing your achievement of chartering the all female Ashland Area Lion's club. We extend best wishes for success.

Representative Noland moved the adoption of the following **HR 221**:

HR 221, A RESOLUTION celebrating the one hundred and thirty-three years Jackson County has been a part of the Commonwealth of Kentucky upon the occasion of Kentucky's Bicentennial Year.

WHEREAS, parts of Clay, Estill, Laurel, Madison, Owsley, and Rockcastle Counties were combined to form Jackson County, effective April 25, 1858; and

WHEREAS, it was the one hundred and fifth county created and was named in honor of Andrew Jackson, hero of the Battle of New Orleans and President of the United States; and

WHEREAS, McKee, the county seat, is located in the heart of the Daniel Boone National Forest which cuts through the middle of the county; and

WHEREAS, as Kentucky approaches its two hundredth anniversary of statehood, it is only fitting and appropriate to honor Jackson County's acceptance into the Commonwealth; and

WHEREAS, geography has always had an active influence on the lives of Kentuckians; and

WHEREAS, the varying topography within the state created the diversity that has been a part of Kentucky life from the beginning; and

WHEREAS, in many ways this diversity has served the state well; and

WHEREAS, it is appropriate that the motto of our great state is "United We Stand, Divided We Fall" because with minor exceptions, that thought has been central to the survival of Kentucky throughout its history from the tumultuous frontier days to the divisions created by the Civil War, to the pressures of changing economic conditions; and

WHEREAS, through all the peaks and valleys, Kentuckians have drawn upon their inner strengths to survive and prosper;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the citizens of Jackson County upon the occasion of Jackson County's one hundred and thirty-third year as a part of the Commonwealth in conjunction with the occasion of Kentucky's Bicentennial Year.

Section 2. That this honorable body commends the people of Jackson County for their dedication enhancing the positive image of the Commonwealth and the preservation of historical and cultural aspects of Kentucky, and encourages all the citizens of Jackson County to join in the observance of Kentucky's Bicentennial Celebration on June 1, 1992.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Jackson County Commissioner, County Court House, McKee, Kentucky, 40447.

HR 221 was adopted by voice vote.

Representative Ford moved the adoption of the following **HR 222**:

HR 222, A RESOLUTION recognizing the song "Kentucky," and honoring Karl Davis and the Osborne Brothers.

WHEREAS, the song "Kentucky" was written by Karl Davis, of Mount Vernon, in 1941 as a tribute to his home state, but it has become much more than that; and

WHEREAS, "Kentucky" has been performed and recorded by dozens of famous artists over the years but none have recreated it with the soul-stirring effect of the Osborne Brothers; and

WHEREAS, the Osborne Brothers were born in Hyden and have achieved world renown with performances in Japan, Europe, Canada and the White House; and

WHEREAS, the incomparable Osborne Brothers have a special history and success with bluegrass and country music and have captured popular attention everywhere;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby recognize the song "Kentucky," written by Karl Davis, and performed by the Osborne Brothers, as the Mountain Lore Folk Song of Kentucky.

Section 2. That this venerable institution does hereby honor Karl Davis and the Osborne Brothers for their parts in making the song "Kentucky" a state song that reflects the beauty and character of our great Commonwealth.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Cloyd and Linda Oaks, 2714 Lindsay Avenue, Louisville, Kentucky 40206; and, to the Osborne Brothers, Allied Entertainers Incorporated, Box 647, Hendersonville, Tennessee 37077-0647.

HR 222 was adopted by voice vote.

Representative Scorsone moved the adoption of the following **HR 224**:

HR 224, A RESOLUTION adjourning in honor of the University of Kentucky Wildcat basketball team and their coach, Rick Pitino.

WHEREAS, after a valiant first-half effort, the Tide was finally stemmed on Sunday, March 15, 1992, in Birmingham, Alabama; and

WHEREAS, the victorious Wildcats dethroned Southeastern Conference Tournament champion Alabama with a 30-6 second-half blitz of points and pressure defense; and

WHEREAS, Jamal Mashburn, the tournament's most valuable player, scored ten of his game-high points in the second-half run when the Tide wimped out; and

WHEREAS, the Monster Mash had plenty of help from his friends who thoroughly demoralized the disintegrating opposition with an 80-54 championship victory; and

WHEREAS, Kentucky has won eleven of its last twelve games, and takes a hard-earned 26-6 record into the NCAA Tournament East Regional in Worcester, Massachusetts on Friday, March 20, 1992 against Old Dominion;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby extend its congratulations to the University of Kentucky Wildcat basketball team, Coach Rick Pitino, and his assistant coaches for winning the Southeastern Conference Tournament championship, and adjourns this day in their honor.

Section 2. That this venerable institution wishes the Wildcats well against Old Dominion, and in their quest for a regional and national championship.

Section 3. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Coach Rick Pitino, University of Kentucky Basketball Program, Memorial Coliseum, Lexington, Kentucky 40506.

HR 224 was adopted by voice vote.

The following members filed requests to have their names added as co-sponsors to Bills and Resolutions: **HB 113**, Representative Noe; **HB 337**, Representative Williams; **HB 365**, Representatives Casebier, Lile, Nelson; **HB 266, HB 365, HB 447, HB 522, HB 546, HB 609, HB 631, HB 697, HB 756, HB 821, HB 861, HCR 149**, Representative Ackerson; **HB 546**, Representative Lile; **HB 748**, Representative Callahan; **HB 822**, Representative Williams; **HB 831**, Representative Callahan; **HJR 130**, Representative Gregory.

Representative Maggard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Maggard moved that his vote be changed from "yea" to "nay" on **HB 778**. Agreed.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that she be recorded as voting "nay" on **HB 458**. Agreed.

Representative Lyne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that her vote be changed from "yea" to "nay" on **HB 839**. Agreed.

Representative Riggs moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Riggs moved that his vote be changed from "yea" to "nay" on **HB 778**. Agreed.

Representative Riggs moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Riggs moved that he be recorded as voting "yea" on **HB 625** and **HB 650**. Agreed.

Representative Mason moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Mason moved that his vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Moberly moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Moberly moved that his vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HCR 154**. Agreed.

Representative Strong moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that his vote be changed from "yea" to "nay" on **HB 133**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 758, HB 778, HB 750** and **HB 871** and "yea" on **HB 667, HB 677, HB 679, HB 581** and **HB 839**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that his vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Williams moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Williams moved that he be recorded as voting "yea" on **HB 677** and **HB 871**. Agreed.

Representative Clarke moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Clarke moved that his vote be changed from "yea" to "nay" on concurrence of Senate Amendment on **HB 458**. Agreed.

Representative Gedling moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gedling moved that he be recorded as voting "yea" on **HB 865**. Agreed.

Representative Gedling moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gedling moved that his vote be changed from "nay" to "yea" on **HB 266**. Agreed.

Announcements

The following meetings were announced:

Counties and Special Districts, 8:30 a.m., March 18, 1992.

Cities, 15 minutes upon adjournment, Room 113, March 17, 1992.

Elections and Constitutional Amendments, 9:00 a.m., March 19, 1992.

The following meeting was cancelled:

Elections and Constitutional Amendments, cancelled, March 17, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 18, 1992.

On the roll call the vote was yeas 71—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Blandford, Bowling, Brown, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Gray, Hancock, J. Harper, K. Harper, Hatcher, Jensen, Johnson, Jones, Kerr, Lear, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Noe, Noland, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riner, Sanders, Sheehan, B. Smith, T Smith, Strong, Stumbo, Todd, Turner, Ward, Williams, Worthington, Yates, Zimmerman. Nays 6—Bronger, Deskins, Heleringer, LeMaster, Scorsone, Stokes.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 18, 1992

FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Glenn Emory, Gateway Christian Church, Mt. Sterling.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Northup.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 17, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 8**, **SB 56**, **SB 60**, **SB 118**, **SB 199**, **SB 209**, **SB 278**, **SB 319**, **SB 321**, **SB 337**, **SB 342**, **SB 346**, **SB 370**, **SB 378**, **SB 417**, **SB 422**, **HB 295**, with Senate Amendment, **HB 330**, with Senate Amendments, **HB 472**, with Senate Amendments, **HB 314**, **HB 327**, **HB 420** and **HB 568**. (Time: 2:02 p.m.)

Message received in regard to **HB 88**: The Senate has passed **HB 88** by way of Committee Substitute and respectfully requests concurrence of this Honorable Body.

Introduction of Bills and Resolutions

HR 225, by Representative Farrow: A RESOLUTION honoring the Georgetown College Tigers men's basketball team.

HR 226, by Representative Farrow: A RESOLUTION in honor of Brian Duvall.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SB 310**, **SCR 106**

Counties and Special Districts: **SB 339**

Education: **SB 261**, **SB 272**, **SB 312**, **SB 384**, **SB 386**, **SB 398**, **SB 420**, **SJR 103**

Elections and Constitutional Amendments: **SB 226**, **SB 262**

Judiciary: **SB 188**

Natural Resources and Environmental Protection: **SJR 108**

State Government: **SB 303**, **SB 324**, **SCR 111**

Transportation: **SB 320**

Representative Richardson moved that the rules be suspended to introduce guests and to act upon a Resolution. Agreed.

Representative Richardson moved the adoption of the following **HR 223**:

HR 223, A RESOLUTION honoring the Youth Leadership Winchester.

WHEREAS the Winchester/Clark County Chamber of Commerce founded the Youth Leadership Winchester in 1990; and

WHEREAS, one of the program's goals is to increase youth's knowledge about the community of Winchester; and

WHEREAS, the other goal is to develop a network of individuals who will help the community grow in future years; and

WHEREAS, without a doubt, Youth Leadership Winchester is important because the quality of community leadership determines the future of a community;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives proudly honors the second year class of Youth Leadership Winchester for becoming the source of leadership in Winchester.

Section 2. That the Clerk of the House of Representatives transmit a copy of this Resolution to each of the following: Dena Lyn Mastrean, 21 Manor Drive, Winchester, KY 40391; Whitney F. Brock, 118 Windridge Drive, Winchester, KY 40391; David William Shearer, 1455 Irvine Road, Winchester, KY 40391; Bruce Blanton Coates, 1226 Van Meter Road, Winchester, KY 40391; Nancy Leann Skaggs, 3710 New Boonesboro, Winchester, KY 40391; Elizabeth Aileen Rompf, 429 Lynnway, Winchester, KY 40391; Sasha Yvonne Wagers, 408 Voone Avenue, Winchester, KY 40391; Julee Carol Baber, 222 Woodbine Court, Winchester, KY 40391; Robert Andrew Rupard, 2700 Miller Hunt Rd., Winchester, KY 40391; Christopher Douglas Kirby, 52 Watts Road, Winchester, KY 40391; Lori Denise Marlowe, 7901 Irvine Road, Winchester, KY 40391; Rebecca Jane Brookshire, 3751 Red River Road, Winchester, KY 40391; Susan Elizabeth Kosky, 210 Overlooking Dr., Winchester, KY 40391; Virginia Ann Hall, 1130 Will Rupard Rd., Winchester, KY 40391; Jennifer Rhea Pasley, 5101 Thompson St. Rd., Mt. Sterling, KY 40353; Claude Allen Newby, 240 Spring Valley, Winchester, KY 40391.

HR 223 was adopted by voice vote.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Labor and Industry: **SB 328**

Report of Committees

The Committee on Economic Development reported **SB 314**, with Committee Substitute attached thereto, **SB 315**, with Committee Substitute attached thereto, and **SB 316**, with Committee Substitute and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 314, AN ACT relating to economic development for Kentucky technology and service industries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in Sections 1 to 15 of this Act:

(1) "Agreement" means any agreement made pursuant to Section 12 of this Act, between the authority and an approved company with respect to an economic development project.

(2) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to Section 9 of this Act.

(3) "Approved costs" means fifty percent (50%) of the total of the start-up costs, plus the annual rent for each elapsed year of the service and technology agreement;

(4) "Assessment" means the "service and technology job creation assessment fee" authorized by Section 11 of this Act;

(5) "Authority" means the "Kentucky Jobs Development Authority" created and established under this Section 3 of this Act;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means a service or technology activity conducted by an approved company;

(8) "Eligible company" means any corporation, partnership, sole proprietorship, or business trust engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(9) "Inducements" means the income tax credits allowed and the assessment authorized by Section 11 of this Act, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(10) "Person" means an individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation, any instrumentality, division, political subdivision, district, court, agency or department thereof;

(11) "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing, location outside of Kentucky to locations approved by the authority;

(12) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used;

(c) Rent shall include the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for grounds being utilized, plus the customary cost of occupancy including, but not limited to, property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(13) "Service or technology" means any activity involving the performance of work not otherwise classified by division, including such successor divisions as agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual", as revised by the United States Office of Management and Budget from time to time, or any successor publication. Notwithstanding the excluded classifications by divisions, those service and technology activities of a company engaged in an ineligible activity may be operated as a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, may be deemed an eligible activity; and

(14) "Start-up costs" means the cost of furnishing and equipping the building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment and relocation costs as verified and approved by the authority in accordance with Section 13 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares that the general welfare and material well-being of citizens of the Commonwealth depends in large measure upon the development and growth of the service and technology industries in the Commonwealth.

(2) The General Assembly hereby finds and further declares that it is in the best interest of the Commonwealth to induce:

(a) The location of service and technology facilities in the Commonwealth; and

(b) The expansion of existing service and technology industries in the Commonwealth, in order to advance the public purposes of relieving unemployment by creating new jobs in the Commonwealth that, but for the inducements to be offered by the authority to approve companies, would not exist, and of creating new sources of tax revenues for the support of the public services provided by the Commonwealth.

(3) The General Assembly hereby finds and further declares that the authorities granted by Sections 1 to 15 of this Act are proper governmental and public purposes for which public moneys may be expended, and that the inducement of:

(a) The location of service and technology facilities in the Commonwealth; and

(b) The expansion of existing service and technology industries in the Commonwealth is of paramount importance, mandating that the provisions of Sections 1 to 15 of this Act be liberally construed and applied in order to advance the public purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky hereby creates the "Kentucky Jobs Development Authority". The authority shall be administratively attached to the Cabinet for Economic Development for the purpose of encouraging the development of and the expansion of the services and technology industry in Kentucky.

(2) The board of directors of the authority shall be the same as the board of directors of the Kentucky Development Finance Authority as established pursuant to KRS 154.020 et seq.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority, or its successor, shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 1 to 15 of this Act, including, but not limited to, power and authority to:

(1) Provide and assist economic development projects pursuant to the provisions of Sections 1 to 15 of this Act, and cooperate with eligible companies in order to promote, foster and support economic development within the Commonwealth;

(2) Conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including without limitation, appointment of special committees for the purpose of gathering information with respect to eligible companies and economic development projects for the purpose of making any determinations necessary or desirable in the furtherance of the purposes of Sections 1 to 15 of this Act;

(3) Negotiate the terms of and enter into service and technology agreements with approved companies;

(4) Appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in Sections 1 to 15 of this Act, and to delegate to the executive director the

rights and powers of the authority required for the proper and desirable execution of the purpose of the authority;

(5) Modify the terms of any service and technology agreement of any kind to which it is a party;

(6) Include in any service and technology agreement the amounts deemed necessary by the authority to pay consultation, advisory, and legal fees, and other expenses necessary or incident to the preparation, adoption, implementation, and enforcement of the terms of the service and technology agreement; however, all fees and expenses incident thereto shall be the responsibility of the approved company;

(7) Promulgate administrative regulations in accordance with KRS Chapter 13A, respecting its programs, duties, and responsibilities as prescribed under the provisions of Sections 1 to 15 of this Act.

(8) Make, execute, and effectuate any agreement or other document with any person, necessary or appropriate to accomplish the purposes of Sections 1 to 15 of this Act;

(9) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source, and to agree to, and to comply with, conditions incidental thereto;

(10) Sue and be sued in its own name, plead and be impleaded;

(11) Maintain an office in the city of Frankfort, and at any other place or places as it may determine;

(12) Adopt an official seal and alter the same at pleasure;

(13) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(14) Employ fiscal consultants, attorneys, appraisers, investments advisors and other consultants, agents, and employees required in the judgment of the authority, and to fix and pay their compensation from funds available to the authority;

(15) Invest any funds held by the authority or its agents, or any moneys not required for immediate disbursement, including investment income, in obligations authorized by KRS 386.020; and

(16) Exercise any or all of the general corporate powers of a nonprofit corporation organized under and not inconsistent with the laws of the Commonwealth.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The secretary of the Economic Development Cabinet shall provide sufficient personnel to the authority to permit it to adequately discharge its duties and responsibilities described in Sections 1 to 15 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director or officer of the authority shall be subject to any personal liability or accountability by reason of his execution of any service and technology agreement on behalf of the authority.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority may accept moneys which may be appropriated by the General Assembly, or moneys which may be received from any other source, including, but not limited to, income from the authority's operations; and expend funds consistent with its purposes, including, but not limited to, the payment of its expenses of administration and operation, and the establishment and maintenance of a reserve or contingency fund.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director, officer, or employee of the authority shall be interested, directly or indirectly, or shall be an officer or employee of, or have an ownership interest in, any firm or corporation interested, directly or indirectly, in any contract with the authority.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Administrative regulations promulgated by the authority in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies shall include, but not be limited to, the following criteria:

(1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in Section 11 of this Act;

(2) The economic development project shall result in the creation by the eligible company of a minimum of twenty-five (25) new jobs held by persons subject to the personal income tax of the Commonwealth within eighteen (18) months of the date of the final resolution authorizing the economic development project. This period may be extended by the authority upon its approval of an applicant by the eligible company for an extension;

(3) Written evidence that:

(a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and,

(b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the company's economic development project; and

(4) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the company would likely locate outside the state.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the company's application, the authority shall request materials and make all necessary and appropriate inquiries respecting the application. After a diligent review of relevant materials and completion of all inquiries, the authority may, by resolution of the board of directors, preliminarily designate an eligible company as an approved company, preliminarily authorize the undertaking of the economic development project, and approve a comprehensive report as prescribed in subsection (2) of this section.

(2) A comprehensive report as prescribed in subsection (1) of this section shall set out the following:

(a) The name, location, business, and standard industrial classification of the eligible company;

(b) The nature and extent of the economic development project;

(c) The use and projected amounts of the inducements to be available to the eligible company by year; and

(d) Other information the authority may require, but records of a confidential nature shall not be made available except under the provisions of KRS 61.870 to 61.884.

(3) After the adoption of the board's resolution preliminarily designating an eligible company as an approved company, preliminarily authorizing the economic development project, and approving the comprehensive report, an agent designated by the authority shall hold at least one (1) public hearing to

solicit public comments regarding the preliminary designation of an eligible company as an approved company and the preliminary authorization of the company's economic development project. Notice of the public hearing shall be given pursuant to KRS Chapter 424.

(4) Unless the board, within sixty (60) days from the conclusion of the public hearing, adopts a final resolution designating the eligible company as an approved company, authorizing the project, and executing a service and technology agreement between the company and the authority, the approved company's request for designation and project authorization shall be considered denied.

(5) The decision to grant a company the status of approved company shall be solely that of the authority, which the board shall base its decision upon consideration of all information provided.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and Section 13 of this Act. The amount of the approved company's income that is attributable to the economic development project shall be determined under Section 17 of this Act.

(a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the agreement in which the tax return of the approved company is filed; and

(b) Ninety (90) days after the filing of the income tax return of the approved company, the Revenue Cabinet shall certify to the authority the Kentucky income tax liability for the preceding year of the approved company with respect to an economic development project, and the amounts of any tax credit allowed pursuant to Section 17 of this Act.

(2) The approved company may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages for each employee whose job has been deemed by the authority to be created as a result of the economic development project;

(a) Each employee paying the assessment shall be entitled to credits against his Kentucky income tax and local occupational tax, as follows:

1. Four-fifths (4/5) of the assessment withheld from wages during the calendar year shall be permitted as a credit against the Kentucky income tax which would otherwise have been withheld as provided by KRS 141.310;

2. One-fifth (1/5) of the assessment withheld from wages during the calendar year shall be permitted as a credit against any local occupational license fee incurred by the employee for the tax year in the jurisdiction in which the economic development project is located. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes; and

3. Employees paying the assessment shall not be subject to income tax withholding as required by KRS 141.310, and shall have any occupational license fee reduced by one-fifth (1/5) of the assessment, if the reduction has been approved by the local jurisdiction as provided in Section 14 of this Act; and

(b) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;

(c) No credit, or portion thereof, shall be allowed against any occupational license fee imposed or dedicated solely by the board of education in a local jurisdiction;

(d) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and

(e) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall cease at the expiration of the agreement.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Before any approved company is granted inducements as prescribed in Sections 1 to 15 of this Act, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a two (2) year period after approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local jurisdiction, if any, of the date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employee falls below twenty-five (25), the authorized inducements shall be suspended until the number of full-time employees equal or exceed twenty-five (25); and

(c) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be fifty percent (50%) of the start-up cost.

(2) Each year, during the ten (10) year life span of the agreement, fifty percent (50%) of the annualized rental payments shall be added to the unrecouped balance of approved costs.

(3) Each year, the inducement earned shall be subtracted from the approved costs.

(4) If, during any fiscal year of the agreement, the accumulated inducements equal the remaining balance of the approved costs, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year, and the approved company shall resume normal personal income tax and occupation license fee withholdings from the employees wages for the remainder of that year.

(5) If during any fiscal year of the agreement, the total of the income tax credit granted to the approved company exceeds the remaining balance of the approved costs, the approved company shall pay the excess to the Commonwealth as income tax.

SECTION 14. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in Sections 1 to 15 of this Act.

(2) If an existing business becomes an approved company, the authority shall determine a base level of employment and a base level of state income tax liability of the approved company for determining eligible credits in remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period.

(3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.

(4) To become eligible for inducements, the approved company shall create and maintain an increase of at least twenty-five (25) employees above the base level of employment.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax owed may be taken as a credit.

(6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the expanded business under the same conditions as authorized for expansion in this section.

SECTION 15. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Before any agreement as prescribed in Section 12 of this Act shall become effective, the legislative body of any local jurisdiction which may lose revenue as a result of the inducements offered pursuant to Sections 1 to 15 of this Act shall approve by official action the granting of inducement to the approved company.

(2) In lieu of a credit against the local occupational license fee, the local government may elect, by vote of its legislative body, to provide for the benefit of the approved company, a benefit of service deemed to be equal to one percent (1%) of the employees wages which would have been subject to the local occupational license fee, or may provide an in-kind contribution equal to one half (1/2) of the rent for the duration of the agreement. For purposes of this subsection, benefits and in-kind contributions shall be services and programs deemed eligible by the local jurisdiction's governing body.

(3) If the local government elects to provide an incentive other than a credit against its local occupational license fee, the assessment authorized by Section 11 of this act shall be four percent (4%), one hundred percent (100%) of which shall be permitted as a credit against Kentucky income tax withheld pursuant to KRS 141.350.

Section 16. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971 shall deduct and withhold upon ***the*** [~~such~~] wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which ***the*** [~~such~~] wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of [~~such~~] wages by ***the*** [~~such~~] employer during the calendar year, or the date of commencement of employment with ***the*** [~~such~~] employer during ***the*** [~~such~~] year, or January 1 of ***the*** [~~such~~] year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make ***the*** [~~such~~] change

in these tables [~~as~~] necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of ***the*** [~~such~~] calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter as if the appropriate average of the wages [~~so~~] estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter ***the*** [~~such~~] amount [~~as may be~~] necessary to adjust the amount actually deducted and withheld upon the wages of ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter to the amount that would be required to be deducted and withheld during ***the*** [~~such~~] quarter if the payroll period of the employee was quarterly.

(8) The cabinet ***may*** [~~is authorized to~~] provide by regulation, under ***the*** [~~such~~] conditions and to ***the*** [~~such~~] extent [~~as~~] it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to ***the*** [~~such~~] additional withholding. ***The*** [~~Such~~] additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) ***Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in Section 11 of this Act may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee. If the Kentucky income tax to be withheld from the employee under this section is greater than four-fifths (4/5) of the job assessment fee set forth above, the excess shall be withheld. If the agreement under Section 15 of this Act is consummated, the offset shall be one hundred percent (100%) of the assessment.***

(10) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. ***The*** [~~Such~~] bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but [~~in no case~~] shall ***not*** exceed fifty thousand dollars ($50,000).

(11)[~~(10)~~] The Commonwealth may bring an action for a restraining order ***or a***[~~,~~] temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. ***The*** [~~Such~~] action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

SECTION 17. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in Section 1 of this Act;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in Section 1 of this Act;

(c) "Tax credit" means the "tax credit" allowed in Sections 2 to 15 of this Act.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14) including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in Sections 2 to 15 of this Act.

(4) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection; however the credit shall not exceed the limits set forth in Sections 2 to 15 of this Act. If the tax computed herein exceeds the credit, the excess shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 15 of this Act and the allowable income tax credit which an approved company may retain under Sections 1 to 15 of this Act.

Section 18. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 152.282(2) ***or Section 11(2)(a)1. of this Act*** shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

The Committee Substitute to **SB 314** is as follows:

SB 314, AN ACT relating to economic development for Kentucky technology and service industries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings in Sections 1 to 15 of this Act:

(1) "Agreement" means any agreement made pursuant to Section 12 of this Act, between the authority and an approved company with respect to an economic development project.

(2) "Approved company" means any eligible company seeking to locate an economic development project from outside the Commonwealth into the Commonwealth, or undertaking an economic development project in the Commonwealth for which it is approved pursuant to Section 9 of this Act.

(3) "Approved costs" means fifty percent (50%) of the total of the start-up costs, plus the annual rent for each elapsed year of the service and technology agreement;

(4) "Assessment" means the "service and technology job creation assessment fee" authorized by Section 11 of this Act;

(5) "Authority" means the "Kentucky Jobs Development Authority" created and established under this Section 3 of this Act;

(6) "Commonwealth" means the Commonwealth of Kentucky;

(7) "Economic development project" or "project" means a service or technology activity conducted by an approved company;

(8) "Eligible company" means any corporation, partnership, sole proprietorship, or business trust engaged in service or technology and meeting the standards promulgated by the authority in accordance with KRS Chapter 13A;

(9) "Inducements" means the income tax credits allowed and the assessment authorized by Section 11 of this Act, which are intended to induce companies engaged in service and technology industries to locate or expand in the Commonwealth;

(10) "Person" means an individual, sole proprietorship, partnership, joint venture, trust, unincorporated organization, association, corporation, institution, entity or government, whether federal, state, county, city, or otherwise, including without limitation, any instrumentality, division, political subdivision, district, court, agency or department thereof;

(11) "Relocation costs" means the identified expenditures by the company for moving costs, separation costs, and any other expenditures substantiated by the company which directly related to the move from an existing, location outside of Kentucky to locations approved by the authority;

(12) "Rent" means:

(a) The actual annual rent or leasing fee paid by an approved company to a bona fide entity negotiated at arms length for the use of a building by the approved company to conduct the approved activity for which the inducement has been granted; or

(b) The fair rental value on an annual basis in a building owned by the approved company of the space used by the approved company to conduct the approved activity for which the inducement has been granted as determined by the authority using criteria which is customary in the real estate industry for the type of building being used;

(c) Rent shall include the cost of amortizing the cost of land and building over the period of time customary in the real estate industry for the type of building and for grounds being utilized, plus the customary cost of occupancy including, but not limited to, property taxes, heating and air-conditioning, electricity, water, sewer, and insurance;

(13) "Service or technology" means any activity involving the performance of work not otherwise classified by division, including such successor divisions as agriculture, forestry and fishing, mining, construction, and manufacturing, in accordance with the "Standard Industrial Classification Manual", as revised by the United States Office of Management and Budget from time to time, or any successor publication. Notwithstanding the excluded classifications by divisions, those service and technology activities of a company engaged in an ineligible activity may be operated as a separate division and, with the approval of the authority and subject to the record keeping requirements established by the authority, may be deemed an eligible activity; and

(14) "Start-up costs" means the cost of furnishing and equipping the building for ordinary business functions, including computers, nonrecurring costs of fixed telecommunication equipment, furnishings, office equipment and relocation costs as verified and approved by the authority in accordance with Section 13 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds and declares that the general welfare and material well-being of citizens of the Commonwealth depends in large measure upon the development and growth of the service and technology industries in the Commonwealth.

(2) The General Assembly hereby finds and further declares that it is in the best interest of the Commonwealth to induce:

(a) The location of service and technology facilities in the Commonwealth; and

(b) The expansion of existing service and technology industries in the Commonwealth, in order to advance the public purposes of relieving unemployment by creating new jobs in the Commonwealth that, but for the inducements to be offered by the authority to approve companies, would not exist, and of creating new sources of tax revenues for the support of the public services provided by the Commonwealth.

(3) The General Assembly hereby finds and further declares that the authorities granted by Sections 1 to 15 of this Act are proper governmental and public purposes for which public moneys may be expended, and that the inducement of:

(a) The location of service and technology facilities in the Commonwealth; and

(b) The expansion of existing service and technology industries in the Commonwealth is of paramount importance, mandating that the provisions of Sections 1 to 15 of this Act be liberally construed and applied in order to advance the public purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly of the Commonwealth of Kentucky hereby creates the "Kentucky Jobs Development Authority". The authority shall be administratively attached to the Cabinet for Economic Development for the purpose of encouraging the development of and the expansion of the services and technology industry in Kentucky.

(2) The board of directors of the authority shall be the same as the board of directors of the Kentucky Development Finance Authority as established pursuant to KRS 154.020 et seq.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority, or its successor, shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 1 to 15 of this Act, including, but not limited to, power and authority to:

(1) Provide and assist economic development projects pursuant to the provisions of Sections 1 to 15 of this Act, and cooperate with eligible companies in order to promote, foster and support economic development within the Commonwealth;

(2) Conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including without limitation, appointment of special committees for the purpose of gathering information with respect to eligible companies and economic development projects for the purpose of making any determinations necessary or desirable in the furtherance of the purposes of Sections 1 to 15 of this Act;

(3) Negotiate the terms of and enter into service and technology agreements with approved companies;

(4) Appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in Sections 1 to 15 of this Act, and to delegate to the executive director the rights and powers of the authority required for the proper and desirable execution of the purpose of the authority;

(5) Modify the terms of any service and technology agreement of any kind to which it is a party;

(6) Include in any service and technology agreement the amounts deemed necessary by the authority to pay consultation, advisory, and legal fees, and other expenses necessary or incident to the preparation, adoption, implementation, and enforcement of the terms of the service and technology agreement; however, all fees and expenses incident thereto shall be the responsibility of the approved company;

(7) Promulgate administrative regulations in accordance with KRS Chapter 13A, respecting its programs, duties, and responsibilities as prescribed under the provisions of Sections 1 to 15 of this Act.

(8) Make, execute, and effectuate any agreement or other document with any person, necessary or appropriate to accomplish the purposes of Sections 1 to 15 of this Act;

(9) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source, and to agree to, and to comply with, conditions incidental thereto;

(10) Sue and be sued in its own name, plead and be impleaded;

(11) Maintain an office in the city of Frankfort, and at any other place or places as it may determine;

(12) Adopt an official seal and alter the same at pleasure;

(13) Adopt bylaws for the regulation of its affairs and the conduct of its business;

(14) Employ fiscal consultants, attorneys, appraisers, investments advisors and other consultants, agents, and employees required in the judgment of the authority, and to fix and pay their compensation from funds available to the authority;

(15) Invest any funds held by the authority or its agents, or any moneys not required for immediate disbursement, including investment income, in obligations authorized by KRS 386.020; and

(16) Exercise any or all of the general corporate powers of a nonprofit corporation organized under and not inconsistent with the laws of the Commonwealth.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The secretary of the Economic Development Cabinet shall provide sufficient personnel to the authority to permit it to adequately discharge its duties and responsibilities described in Sections 1 to 15 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director or officer of the authority shall be subject to any personal liability or accountability by reason of his execution of any service and technology agreement on behalf of the authority.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority may accept moneys which may be appropriated by the General Assembly, or moneys which may be received from any other source, including, but not limited to, income from the authority's operations; and expend funds consistent with its purposes, including, but not limited to, the payment of its expenses of administration and operation, and the establishment and maintenance of a reserve or contingency fund.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director, officer, or employee of the authority shall be interested, directly or indirectly, or shall be an officer or employee of, or have an ownership interest in, any firm or corporation interested, directly or indirectly, in any contract with the authority.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Administrative regulations promulgated by the authority in accordance with KRS Chapter 13A, regarding the approval of eligible companies and economic development projects conducted by those companies shall include, but not be limited to, the following criteria:

(1) A determination by the authority that more than seventy-five percent (75%) of services provided by the eligible company from the proposed project shall be provided for persons located outside the Commonwealth during each year of the period during which it receives inducements as authorized in Section 11 of this Act;

(2) The economic development project shall result in the creation by the eligible company of a minimum of twenty-five (25) new jobs held by persons subject to the personal income tax of the Commonwealth within eighteen (18) months of the date of the final resolution authorizing the economic development project. This period may be extended by the authority upon its approval of an applicant by the eligible company for an extension;

(3) Written evidence that:

(a) Approval of the economic development project and the resulting inducements to be offered are essential to the creation of new jobs in the Commonwealth by an eligible company in connection with its economic development project; and,

(b) No significant number of existing jobs in the Commonwealth will be lost, or adversely affected, due to the designation of an eligible company as an approved company, and to the approval of the company's economic development project; and

(4) That the economic development project could reasonably and efficiently locate outside of the Commonwealth and, without the inducements offered by the authority, the company would likely locate outside the state.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the company's application, the authority shall request materials and make all necessary and appropriate inquiries respecting the application. After a diligent review of relevant materials and completion of all inquiries, the authority may, by resolution of the board of directors, preliminarily designate an eligible company as an approved company, preliminarily authorize the undertaking of the economic development project, and approve a comprehensive report as prescribed in subsection (2) of this section.

(2) A comprehensive report as prescribed in subsection (1) of this section shall set out the following:

(a) The name, location, business, and standard industrial classification of the eligible company;

(b) The nature and extent of the economic development project;

(c) The use and projected amounts of the inducements to be available to the eligible company by year; and

(d) Other information the authority may require, but records of a confidential nature shall not be made available except under the provisions of KRS 61.870 to 61.884.

(3) After the adoption of the board's resolution preliminarily designating an eligible company as an approved company, preliminarily authorizing the economic development project, and approving the comprehensive report, an agent designated by the authority shall hold at least one (1) public hearing to solicit public comments regarding the preliminary designation of an eligible company as an approved company and the preliminary authorization of the company's economic development project. Notice of the public hearing shall be given pursuant to KRS Chapter 424.

(4) Unless the board, within sixty (60) days from the conclusion of the public hearing, adopts a final resolution designating the eligible company as an approved company, authorizing the project, and executing a service and technology agreement between the company and the authority, the approved company's request for designation and project authorization shall be considered denied.

(5) The decision to grant a company the status of approved company shall be solely that of the authority, which the board shall base its decision upon consideration of all information provided.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The approved company shall be entitled to an income tax credit equal to one hundred percent (100%) of the income tax that would otherwise be due to the Commonwealth by the approved company attributable to the economic development project, as limited by the provisions of this section and Section 13 of this Act. The amount of the approved company's income that is attributable to the economic development project shall be determined under Section 17 of this Act.

(a) The income tax credit allowed to the approved company shall be subtracted from the approved cost balance in the fiscal year of the agreement in which the tax return of the approved company is filed; and

(b) Ninety (90) days after the filing of the income tax return of the approved company, the Revenue Cabinet shall certify to the authority the Kentucky income tax liability for the preceding year of the approved company with respect to an economic development project, and the amounts of any tax credit allowed pursuant to Section 17 of this Act.

(2) The approved company may require each employee, subject to state tax imposed by KRS 141.020, as a condition of employment, to agree to pay a service and technology job creation assessment fee up to five percent (5%) of the gross wages for each employee whose job has been deemed by the authority to be created as a result of the economic development project;

(a) Each employee paying the assessment shall be entitled to credits against his Kentucky income tax and local occupational tax, as follows:

1. Four-fifths (4/5) of the assessment withheld from wages during the calendar year shall be permitted as a credit against the Kentucky income tax which would otherwise have been withheld as provided by KRS 141.310;

2. One-fifth (1/5) of the assessment withheld from wages during the calendar year shall be permitted as a credit against any local occupational license fee incurred by the employee for the tax year in the jurisdiction in which the economic development project is located. If more than one (1) local tax is incurred, the one-fifth (1/5) assessment shall be prorated proportionately among the taxes; and

3. Employees paying the assessment shall not be subject to income tax withholding as required by KRS 141.310, and shall have any occupational license fee reduced by one-fifth (1/5) of the assessment, if the reduction has been approved by the local jurisdiction as provided in Section 15 of this Act; and

(b) If an approved company elects to impose the assessment as a condition of employment, it shall be authorized to deduct the assessment from each payment of wages to the employee;

(c) No credit, or portion thereof, shall be allowed against any occupational license fee imposed or dedicated solely by the board of education in a local jurisdiction;

(d) The approved company collecting an assessment shall make its payroll, books, and records available to the authority when the authority shall request, and shall file with the authority documentation pertaining to the assessment as the authority may require; and

(e) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project shall cease at the expiration of the agreement.

SECTION 12. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

Before any approved company is granted inducements as prescribed in Sections 1 to 15 of this Act, a service and technology agreement with respect to the company's economic development project shall be entered into between the authority and the approved company. The terms and provisions of the agreement shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(1) The term of an agreement shall not be longer than ten (10) years from the activation date established by the approved company. The activation date shall be any time within a two (2) year period after approval of the agreement by the authority. In order to implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, the employees, and the affected local jurisdiction, if any, of the date on which implementation of the inducements authorized in the agreement shall occur.

(2) The agreement shall include:

(a) A description of the authorized inducements to be used by the approved company;

(b) A provision that, if the total number of full-time employee falls below twenty-five (25), the authorized inducements shall be suspended until the number of full-time employees equal or exceed twenty-five (25); and

(c) A provision that neither income tax credits nor assessments are assignable without written consent by the authority.

SECTION 13. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Before the end of the first year following the activation date, the authority shall, using data supplied by the approved company, verify and determine the total start-up costs for the approved company's economic development project. The initial approved costs shall be fifty percent (50%) of the start-up cost.

(2) Each year, during the ten (10) year life span of the agreement, fifty percent (50%) of the annualized rental payments shall be added to the unrecouped balance of approved costs.

(3) Each year, the inducement earned shall be subtracted from the approved costs.

(4) If, during any fiscal year of the agreement, the accumulated inducements equal the remaining balance of the approved costs, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year, and the approved company shall resume normal personal income tax and occupation license fee withholdings from the employees wages for the remainder of that year.

(5) If during any fiscal year of the agreement, the total of the income tax credit granted to the approved company exceeds the remaining balance of the approved costs, the approved company shall pay the excess to the Commonwealth as income tax.

SECTION 14. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) If an eligible company operates an existing service and technology business in Kentucky, and wishes to expand that business within the Commonwealth, the eligible company may submit an application to the authority to become an approved company and eligible for the inducements offered in Sections 1 to 15 of this Act.

(2) If an existing business becomes an approved company, the authority shall determine a base level of employment and a base level of state income tax liability of the approved company for determining eligible credits in remaining years of the approved company's project period. The base level shall be determined by taking into consideration any seasonal fluctuations or aberrations of employment levels over a preceding three (3) year period.

(3) The authority shall identify, by name, all of the existing employees engaged in the service and technology activity, and these employees shall be exempt from the assessment. If any of these employees cease working in the activity, another employee shall be added to the base level of employment, based on the earliest date of entry into the work force, and he shall be exempt from the assessment. The authority may negotiate with the approved company a different method of determining the base level of employment which would yield a more equitable result for the approved company, the Commonwealth, local jurisdictions, and the employees.

(4) To become eligible for inducements, the approved company shall create and maintain an increase of at least twenty-five (25) employees above the base level of employment.

(5) The approved company shall continue to pay to the Commonwealth, on an annualized basis during the term of the agreement, the base level of income tax, adjusted on an annual basis to reflect changes in the consumers price index. Any excess income tax owed may be taken as a credit.

(6) If any approved company expands because of an increase in business or because of the commencement of a new line of business, it shall be eligible, at the discretion of the authority, to negotiate a separate and additional agreement to cover the expanded business under the same conditions as authorized for expansion in this section.

SECTION 15. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) Before any agreement as prescribed in Section 12 of this Act shall become effective, the legislative body of any local jurisdiction which may lose revenue as a result of the inducements offered pursuant to Sections 1 to 15 of this Act shall approve by official action the granting of inducement to the approved company.

(2) In lieu of a credit against the local occupational license fee, the local government may elect, by vote of its legislative body, to provide for the benefit of the approved company, a benefit of service deemed to be equal to one percent (1%) of the employees wages which would have been subject to the local occupational license fee, or may provide an in-kind contribution equal to one half (1/2) of the rent for the duration of the agreement. For purposes of this subsection, benefits and in-kind contributions shall be services and programs deemed eligible by the local jurisdiction's governing body.

(3) If the local government elects to provide an incentive other than a credit against its local occupational license fee, the assessment authorized by Section 11 of this act shall be four percent (4%), one hundred percent (100%) of which shall be permitted as a credit against Kentucky income tax withheld pursuant to KRS 141.350.

Section 16. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971 shall deduct and withhold upon *the* [~~such~~] wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which *the* [~~such~~] wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of [~~such~~] wages by *the* [~~such~~] employer during the calendar year, or the date of commencement of employment with *the* [~~such~~] employer during *the* [~~such~~] year, or January 1 of *the* [~~such~~] year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make ***the*** [~~such~~] change in these tables [~~as~~] necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of ***the*** [~~such~~] calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter as if the appropriate average of the wages [~~so~~] estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter ***the*** [~~such~~] amount [~~as may be~~] necessary to adjust the amount actually deducted and withheld upon the wages of ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter to the amount that would be required to be deducted and withheld during ***the*** [~~such~~] quarter if the payroll period of the employee was quarterly.

(8) The cabinet ***may*** [~~is authorized to~~] provide by regulation, under ***the*** [~~such~~] conditions and to ***the*** [~~such~~] extent [~~as~~] it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to ***the*** [~~such~~] additional withholding. ***The*** [~~Such~~] additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) ***Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in Section 11 of this Act may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be four-fifths (4/5) of the amount of the assessment fee withheld from the employee. If the Kentucky income tax to be withheld from the employee under this section is greater than four-fifths (4/5) of the job assessment fee set forth above, the excess shall be withheld. If the agreement under Section 15 of this Act is consummated, the offset shall be one hundred percent (100%) of the assessment.***

(10) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. ***The*** [~~Such~~] bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but [~~in no case~~] shall ***not*** exceed fifty thousand dollars ($50,000).

(11)[~~(10)~~] The Commonwealth may bring an action for a restraining order ***or a***[~~,~~] temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. ***The*** [~~Such~~] action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

SECTION 17. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in Section 1 of this Act;

(b) "Economic development project" shall have the same meaning as economic development project as set forth in Section 1 of this Act;

(c) "Tax credit" means the "tax credit" allowed in Sections 2 to 15 of this Act.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14) including income from an economic development project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in Sections 2 to 15 of this Act.

(4) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection; however the credit shall not exceed the limits set forth in Sections 2 to 15 of this Act. If the tax computed herein exceeds the credit, the excess shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 15 of this Act and the allowable income tax credit which an approved company may retain under Sections 1 to 15 of this Act.

Section 18. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 152.282(2) ***or Section 11(2)(a)1. of this Act*** shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

SECTION 19. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Development Finance Authority, or its successor, shall develop, pursuant to KRS 154.005 to 154.180, criteria which may be used by the authority in considering the requests by industrial entities for financial assistance for proposed industrial development projects. The authority, or its successor, may develop criteria which shall include, but not be limited to, potential productivity gains due to the funding of the proposed technological investment.

(2) In developing criteria as prescribed in subsection (1) of this section, the authority shall consider the following:

(a) For existing firms, past productivity trends and potential productivity gains due to the funding of technological investments; and

(b) For new firms, the degree to which the proposed technological investment will be expected to cause the firm's productivity to be higher than the average for firms in the industry it represents.

(3) When considering productivity gains, the authority shall consider the following:

(a) 1. Total real value of output defined as the total sales in real dollars in the calendar year adjusted by the producer price index for the standard industrial classification of that business; or

2. Potential total real value of output defined as the forecasted total sales in real dollars as measured in the current period; and

(b) 1. Productivity measure defined as the total real value of output for a calendar year divided by total employment for that calendar year; or

2. Potential productivity measure defined as the potential total real value of output divided by the total forecasted employment.

(4) Productivity trends of a business shall be evaluated by comparing the annual rate of change in the productivity measure for an individual business to the annual rate of change in productivity measure for businesses engaged in a similar economic activity. The recommended source for industry productivity measures is the rate of change in industry labor productivity indexes published by the United States Bureau of Labor Statistics.

SB 315, AN ACT relating to an economic revitalization program for existing Kentucky industries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 11 of this Act, unless the context clearly indicates otherwise:

(1) "Agreement" means an agreement entered into, pursuant to Section 10 of this Act, on behalf of the authority and an approved company with respect to an economic revitalization project;

(2) "Approved company" means any eligible company approved by the authority pursuant to Section 9 of this Act requiring an economic revitalization project;

(3) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

(f) All other costs comparable with those described above;

(4) "Assessment" means the job revitalization assessment fee authorized by Section 11 of this Act;

(5) "Authority" means the Kentucky Industrial Revitalization Authority created by Section 3 of this Act;

(6) "Board" means the board of directors of the Kentucky Rural Economic Development Authority, or its successor;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;

(9) "Eligible company" means any corporation, partnership, sole proprietorship, or business trust, employing or intending to employ a minimum of twenty-five (25) persons engaged in manufacturing at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing has been temporarily suspended and which meets the standards promulgated by the authority pursuant to Section 9 of this Act;

(10) "Inducements" means the Kentucky income tax credit and the job revitalization assessment fee as prescribed in Sections 10 and 11 of this Act;

(11) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities; and

(12) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that the general welfare and material well-being of the citizens of the Commonwealth depends in large measure upon the revitalization and development of industry in the Commonwealth, and that it is in the best interest of the Commonwealth to induce the revitalization of existing manufacturing facilities within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the inducements to be offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth; and that the authority prescribed by

Sections 2 to 11 of this Act, and the purposes to be accomplished under the provisions of Sections 2 to 11 of this Act are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the creation of projects is of paramount importance mandating that the provisions of Sections 2 to 11 of this Act be liberally construed and applied in order to advance public purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Industrial Revitalization Authority is created and established as an agency, and instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with powers and authority to perform essential governmental and public functions and purposes to improve and otherwise promote the general welfare and material well-being of the people of the Commonwealth by promoting, supporting and approving projects.

(2) The authority shall be governed by a board of directors consisting of the board of directors of the Kentucky Rural Economic Development Authority, or its successor, as prescribed in KRS 152.264.

(3) The board of directors shall comply with the provisions of KRS 152.264 in regard to its operations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 2 to 11 of this Act, including, but without limiting the generality of the foregoing to:

(1) Provide for projects pursuant to the provisions of Sections 2 to 11 of this Act, and to cooperate with eligible companies in order to promote, foster, and support economic revitalization and development within the Commonwealth;

(2) Conduct hearings and inquiries, in the manner and by methods it deems desirable, including, but not limited to, the appointing of special committees to gather information with respect to eligible companies and projects for the purpose of making any determinations necessary or desirable in the furtherance of Sections 2 to 11 of this Act;

(3) Appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in Sections 2 to 11 of this Act, and to delegate to the executive director the rights and powers of the authority required for the proper and desirable execution of the purposes of the authority;

(4) Consent, if it deems necessary or desirable in the fulfillment of its purposes, to the modification of the terms of an agreement of any kind to which the authority is a party;

(5) Promulgate administrative regulations in accordance with KRS Chapter 13A, respecting its programs and authority;

(6) Make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of Sections 2 to 11 of this Act;

(7) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and to agree to, and to comply with, conditions attached thereto;

(8) Sue and be sued in its own name, plead and be impleaded;

(9) Maintain an office in the city of Frankfort and at any other place or places as it may determine;

(10) Adopt an official seal and alter it at its pleasure;

(11) Adopt by-laws for the regulation of its affairs and the conduct of its business;

(12) Employ fiscal consultants, attorneys, appraisers, investment advisors, trustees, other consultants, agents and employees, and to fix and pay their compensation from funds available to the authority;

(13) Exercise any or all of the general corporate powers of a nonprofit corporation organized under KRS Chapter 273, and not inconsistent with the provisions of Sections 2 to 11 of this Act; and

(14) Include in any revitalization agreement the amounts deemed necessary by the authority to pay consultant, advisory, and legal fees, and other expenses necessary or incident to the preparation, adoption, implementation, and enforcement of the terms of the revitalization agreements. All the fees and expenses shall be the responsibility of the approved company.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The secretary of the Cabinet for Economic Development shall provide sufficient personnel to serve as staff for the authority in order to permit the authority to adequately discharge its duties and responsibilities prescribed in Sections 2 to 11 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director or officer of the authority shall be subject to any personal liability or accountability by reason of his execution of any obligation duly authorized by the authority.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority may accept and expend moneys which may be appropriated from time to time by the General Assembly, or moneys which may be received from any source, including income from the authority's operations for effectuating its purpose, including, without limitation, the payment of the expenses of administration and operation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director, officer, or employee of the authority shall be interested, directly or indirectly, or shall be an officer or employee, or have an ownership interest in any firm or corporation interested, directly or indirectly, in any contract with the authority.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) These standards shall give greatest weight to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing facility; and the retention or expansion of the greatest number of employees at the manufacturing facility.

(3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except a substantial investment in the project, assisted by the inducements authorized by Section 2 to 11 of this Act, the eligible company will close its manufacturing facility, permanently lay off its employees, and cease operations.

(4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including, but not limited to, financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility; and set out alternatives that are available to the company.

(5) The authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in its independent judgment, the company will close the facility absent intervention by the authority. The company shall pay the cost of this evaluation.

(6) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility.

(7) The authority shall review the report of consultant and other information which has been made available to it to determine whether the company intends to close the facility for valid reasons. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

(8) The authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.

(9) After the public hearing, the authority, by resolution of its board of directors, may declare the jobs then existing at the facility to be lost; may approve the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(10) All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, a revitalization agreement with respect to its project. The terms and provisions of each revitalization agreement shall be determined by negotiations between the authority and the approved company, except that each revitalization agreement shall include the following provisions:

(a) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant;

(b) In consideration of the execution of the agreement, the approved company may be permitted during the time in which the agreement is in effect, which shall not exceed ten (10) years, the following:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the project as determined under Section 13 of this Act; plus

2. The aggregate job revitalization assessment withheld by the approved company in each year;

(c) The income tax credit allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or fifty percent (50%) of the approved cost that has not yet been recovered. The credit shall be allowed in each fiscal year of the revitalization agreement in which a tax return of the approved company is filed until the entire fifty percent (50%) of the approved cost has been received. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority the state income tax liability for the preceding year of the approved company with respect to a project receiving inducements under Sections 2 to 11 of this Act and the amount of any tax credits taken pursuant to Section 10 of this Act.;

(d) The agreement shall provide that:

1. The term shall not be longer than the earlier of:

a. The date on which the approved company has received Kentucky income tax credits or withholds assessments equal to 50% of the approved costs of its project; or *b. Ten (10) years from the date of the execution of the agreement.*

2. Prior to final execution of the agreement, the company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

a. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved company on behalf of its employees to the local government entities resulting from the execution of the agreement; or

b. In lieu of the credit against the local occupational license fee, an agreement with the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

c. If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the portion of the assessment credited against the local occupational license fee shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed or dedicated solely to a local board of education.

(2) If, prior to the execution of the assessment agreement, the approved company elects to utilize the job revitalization assessment fee as prescribed in Section 11 of this Act, a vote of the employees shall be taken by the approved company to approve or disapprove the withholding of the assessment. The vote shall be conducted in a manner approved by the authority.

(3) The agreement shall not be executed unless the assessment is approved by a majority of the employees voting;

(4) A majority vote of the employees of the approved company voting in favor of the assessment shall authorize the approved company to invoke the assessment on all employees of the approved company; and

(5) Each employee shall sign a written authorization in a form acceptable to the authority by which the employer is authorized to deduct the assessment from the employee's wages;

(6) Notwithstanding the provisions of this section, no approved company shall assess the wages of an employee who is party to an individual employment contract with the approved company, or the wages of an employee whose wages will fall below applicable federal or state minimum wage standards if the job revitalization assessment fee is imposed.

(7) The agreement shall not be transferable or assignable by the approved company without the expressed written consent of the authority.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay a job revitalization assessment fee, not to exceed, during any fiscal year of the approved company, six percent (6%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project.

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to two-thirds (2/3) of the job revitalization assessment fee, if the agreement set forth in Section 10(1)(d)2.b. of this Act is consummated.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-sixth (1/6) of the job revitalization assessment fee, unless the agreement set forth in Section 10(1)(d)2.b. of this Act is consummated.

(4) If an approved company shall elect to impose the assessment fee as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsection (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at reasonable times the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall lapse upon expiration or termination of the agreement.

Section 12. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971 shall deduct and withhold upon ***the*** [~~such~~] wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which ***the*** [~~such~~] wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of [~~such~~] wages by ***the*** [~~such~~] employer during the calendar year, or the date of commencement of employment with ***the*** [~~such~~] employer during ***the*** [~~such~~] year, or January 1 of ***the*** [~~such~~] year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make ***the*** [~~such~~] change in these tables [~~as~~] necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of ***the*** [~~such~~] calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter as if the appropriate average of the wages [~~so~~] estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter ***the*** [~~such~~] amount [~~as may be~~] necessary to adjust the amount actually deducted and withheld upon the wages of ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter to the amount that would be required to be deducted and withheld during ***the*** [~~such~~] quarter if the payroll period of the employee was quarterly.

(8) The cabinet ***may*** [~~is authorized to~~] provide by regulation, under ***the*** [~~such~~] conditions and to ***the*** [~~such~~] extent [~~as~~] it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to ***the*** [~~such~~] additional withholding. ***The*** [~~Such~~] additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) ***Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in Section 11 of this Act may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee. If the Kentucky income tax to be withheld from the employee under this section is greater than two-thirds (2/3) of the job assessment fee set forth above, or four-fifths (4/5) if the agreement under Section 10(1)(d)2.b. of this Act is consummated, the excess shall be withheld.***

(10) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. ***The*** [~~Such~~] bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but [~~in no case~~] shall ***not*** exceed fifty thousand dollars ($50,000).

(11)[~~(10)~~] The Commonwealth may bring an action for a restraining order ***or*** a[~~,~~] temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. ***The*** [~~Such~~] action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

SECTION 13. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in Section 1 of this Act;

(b) "Economic revitalization project" shall have the same meaning as set forth in Section 1 of this Act;

(c) "Tax credit" means the "tax credit" allowed in Section 10 of this Act.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14) including income from an economic revitalization project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic revitalization project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in Section 10 of this Act.

(4) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection; however the credit shall not exceed the limits set forth in Section 10 of this Act. If the tax computed herein exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, and the tax credit determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate

accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 11 of this Act and the allowable income tax credit which an approved company may retain under Sections 1 to 11 of this Act.

Section 14. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 152.282(2) ***or Section 11(2) of this Act*** shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

The Committee Substitute to **SB 315** is as follows:

SB 315, AN ACT relating to an economic revitalization program for existing Kentucky industries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

As used in Sections 2 to 11 of this Act, unless the context clearly indicates otherwise:

(1) "Agreement" means an agreement entered into, pursuant to Section 10 of this Act, on behalf of the authority and an approved company with respect to an economic revitalization project;

(2) "Approved company" means any eligible company approved by the authority pursuant to Section 9 of this Act requiring an economic revitalization project;

(3) "Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project which is not paid by the vendor, supplier, deliveryman, contractor, or otherwise provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(d) All costs required to be paid under the terms of any contract for the acquisition, construction, equipping, rehabilitation, and installation of an economic revitalization project;

(e) All costs required for the installation of utilities, including, but not limited to, water, sewer, sewer treatment, gas, electricity, communications, and railroads, and including off-site construction of the facilities paid for by the approved company; and

(f) All other costs comparable with those described above;

(4) "Assessment" means the job revitalization assessment fee authorized by Section 11 of this Act;

(5) "Authority" means the Kentucky Industrial Revitalization Authority created by Section 3 of this Act;

(6) "Board" means the board of directors of the Kentucky Rural Economic Development Authority, or its successor;

(7) "Commonwealth" means the Commonwealth of Kentucky;

(8) "Economic revitalization project" or "project" means the acquisition, construction, equipping, and rehabilitation of machinery and equipment, constituting fixtures or otherwise, and with respect thereto, the construction, rehabilitation, and installation of improvements of facilities necessary or desirable for the acquisition, construction, installation, and rehabilitation of the machinery and equipment, including surveys; installation of utilities, including water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; and off-site construction of utility extensions to the boundaries of the real estate on which the facilities are located, all of which are utilized to improve the economic situation of the approved company to allow the approved company to remain in operation and retain or create jobs;

(9) "Eligible company" means any corporation, partnership, sole proprietorship, or business trust, employing or intending to employ a minimum of twenty-five (25) persons engaged in manufacturing at the same facility, whether owned or leased, located and operating within the Commonwealth on a permanent basis for a reasonable period of time preceding the request for approval by the authority of an economic revitalization project, including facilities where manufacturing has been temporarily suspended and which meets the standards promulgated by the authority pursuant to Section 9 of this Act;

(10) "Inducements" means the Kentucky income tax credit and the job revitalization assessment fee as prescribed in Sections 10 and 11 of this Act;

(11) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing that results in a change in the condition of the property and any related activity or function, together with the storage, warehousing, distribution, and related office facilities; and

(12) "State agency" means any state administrative body, agency, department, or division as defined in KRS 42.010, or any board, commission, institution, or division exercising any function of the state which is not an independent municipal corporation or political subdivision.

SECTION 2. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds and declares that the general welfare and material well-being of the citizens of the Commonwealth depends in large measure upon the revitalization and development of industry in the Commonwealth, and that it is in the best interest of the Commonwealth to induce the revitalization of existing manufacturing facilities within the Commonwealth in order to advance the public purposes of relieving unemployment by preserving and creating jobs that would not exist if not for the inducements to be offered by the authority to approved companies, and by preserving and creating sources of tax revenues for the support of public services provided by the Commonwealth; and that the authority prescribed by Sections 2 to 11 of this Act, and the purposes to be accomplished under the provisions of Sections 2 to 11 of this Act are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the creation of projects is of paramount importance mandating that the provisions of Sections 2 to 11 of this Act be liberally construed and applied in order to advance public purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Industrial Revitalization Authority is created and established as an agency, and instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic with powers and authority to perform essential governmental and public functions and purposes to improve and otherwise promote the general welfare and material well-being of the people of the Commonwealth by promoting, supporting and approving projects.

(2) The authority shall be governed by a board of directors consisting of the board of directors of the Kentucky Rural Economic Development Authority, or its successor, as prescribed in KRS 152.264.

(3) The board of directors shall comply with the provisions of KRS 152.264 in regard to its operations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of Sections 2 to 11 of this Act, including, but without limiting the generality of the foregoing to:

(1) Provide for projects pursuant to the provisions of Sections 2 to 11 of this Act, and to cooperate with eligible companies in order to promote, foster, and support economic revitalization and development within the Commonwealth;

(2) Conduct hearings and inquiries, in the manner and by methods it deems desirable, including, but not limited to, the appointing of special committees to gather information with respect to eligible companies and projects for the purpose of making any determinations necessary or desirable in the furtherance of Sections 2 to 11 of this Act;

(3) Appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in Sections 2 to 11 of this Act, and to delegate to the executive director the rights and powers of the authority required for the proper and desirable execution of the purposes of the authority;

(4) Consent, if it deems necessary or desirable in the fulfillment of its purposes, to the modification of the terms of an agreement of any kind to which the authority is a party;

(5) Promulgate administrative regulations in accordance with KRS Chapter 13A, respecting its programs and authority;

(6) Make, execute, and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of Sections 2 to 11 of this Act;

(7) Accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance, and any other aid from any source and to agree to, and to comply with, conditions attached thereto;

(8) Sue and be sued in its own name, plead and be impleaded;

(9) Maintain an office in the city of Frankfort and at any other place or places as it may determine;

(10) Adopt an official seal and alter it at its pleasure;

(11) Adopt by-laws for the regulation of its affairs and the conduct of its business;

(12) Employ fiscal consultants, attorneys, appraisers, investment advisors, trustees, other consultants, agents and employees, and to fix and pay their compensation from funds available to the authority;

(13) Exercise any or all of the general corporate powers of a nonprofit corporation organized under KRS Chapter 273, and not inconsistent with the provisions of Sections 2 to 11 of this Act; and

(14) Include in any revitalization agreement the amounts deemed necessary by the authority to pay consultant, advisory, and legal fees, and other expenses necessary or incident to the preparation, adoption, implementation, and enforcement of the terms of the revitalization agreements. All the fees and expenses shall be the responsibility of the approved company.

SECTION 5. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The secretary of the Cabinet for Economic Development shall provide sufficient personnel to serve as staff for the authority in order to permit the authority to adequately discharge its duties and responsibilities prescribed in Sections 2 to 11 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director or officer of the authority shall be subject to any personal liability or accountability by reason of his execution of any obligation duly authorized by the authority.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

The authority may accept and expend moneys which may be appropriated from time to time by the General Assembly, or moneys which may be received from any source, including income from the authority's operations for effectuating its purpose, including, without limitation, the payment of the expenses of administration and operation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

No director, officer, or employee of the authority shall be interested, directly or indirectly, or shall be an officer or employee, or have an ownership interest in any firm or corporation interested, directly or indirectly, in any contract with the authority.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish standards for the determination and approval of eligible companies and their projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) These standards shall give greatest weight to the need for the project; the new capital investment in the project that will result in financial stability for the manufacturing facility; and the retention or expansion of the greatest number of employees at the manufacturing facility.

(3) With respect to each eligible company making an application to the authority for inducements, and with respect to the project described in the application, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except a substantial investment in the project, assisted by the inducements authorized by Section 2 to 11 of this Act, the eligible company will close its manufacturing facility, permanently lay off its employees, and cease operations.

(4) The eligible company shall, in a manner acceptable to the authority, detail the condition of the facility, including, but not limited to, financial, efficiency, and productivity matters; explain in detail why the company intends to close the facility; and set out alternatives that are available to the company.

(5) The authority shall engage the services of a competent consulting firm or technical resource to analyze the data made available by the company, and to collect and analyze additional information necessary to determine that, in its independent judgment, the company will close the facility absent intervention by the authority. The company shall pay the cost of this evaluation.

(6) The company shall cooperate with the consultant and provide all of the data which could reasonably be required by the consultant to make a fair assessment of the company's intentions to close the facility.

(7) The authority shall review the report of consultant and other information which has been made available to it to determine whether the company intends to close the facility for valid reasons. The authority shall determine the potential of the proposed revitalization project to make the facility stable, productive, and competitive in its market.

(8) The authority shall hold a public hearing to solicit public comment from any person, group, or interested party regarding the proposed project.

(9) After the public hearing, the authority, by resolution of its board of directors, may declare the jobs then existing at the facility to be lost; may approve the eligible company's application for a project; and may grant to the eligible company the status of an approved company. The decision reached by the authority shall be final and no appeal shall be granted.

(10) All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

SECTION 10. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, a revitalization agreement with respect to its project. The terms and provisions of each revitalization agreement shall be determined by negotiations between the authority and the approved company, except that each revitalization agreement shall include the following provisions:

(a) The agreement shall set a date by which the approved company will have completed the project. Within three (3) months of the completion date, the company shall document the actual cost of the project in a manner acceptable to the authority. The authority may employ an independent consultant or utilize technical resources to verify the cost of the project. The approved company shall reimburse the authority for the cost of the consultant;

(b) In consideration of the execution of the agreement, the approved company may be permitted during the time in which the agreement is in effect, which shall not exceed ten (10) years, the following:

1. A credit against the Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the project as determined under Section 13 of this Act; plus

2. The aggregate job revitalization assessment withheld by the approved company in each year;

(c) The income tax credit allowed to the approved company shall be equal to the lesser of the total amount of the tax liability or fifty percent (50%) of the approved cost that has not yet been recovered. The credit shall be allowed in each fiscal year of the revitalization agreement in which a tax return of the approved company is filed until the entire fifty percent (50%) of the approved cost has been received. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.044 or 141.305 on income from the economic revitalization project. Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority the state income tax liability for the preceding year of the approved company with respect to a project receiving inducements under Sections 2 to 11 of this Act and the amount of any tax credits taken pursuant to Section 10 of this Act.;

(d) The agreement shall provide that:

1. The term shall not be longer than the earlier of:

a. The date on which the approved company has received Kentucky income tax credits or withholds assessments equal to 50% of the approved costs of its project; or

b. Ten (10) years from the date of the execution of the agreement.

2. Prior to final execution of the agreement, the company shall secure from all local governmental authorities responsible for collecting local occupational license fees one (1) of the following:

a. A resolution or order of the local governmental entities acknowledging and consenting to the termination or partial termination of the receipt of local occupational license fees paid by the approved *company on behalf of its employees to the local government entities resulting from the execution of the agreement; or*

b. In lieu of the credit against the local occupational license fee, an agreement with the local governmental entities by which the local governmental entities will appropriate funds in an amount equal to the amount of the credit of the local occupational license fee for the benefit of the approved company in a manner consistent with the applicable state laws.

c. If more than one (1) local occupational license fee is imposed upon the employees of the approved company, the portion of the assessment credited against the local occupational license fee shall be apportioned to each local occupational license fee according to each local occupational license fee's proportion to the total of all local occupational license fees. No credit, or portion thereof shall be allowed against any local occupational license fee imposed or dedicated solely to a local board of education.

(2) If, prior to the execution of the assessment agreement, the approved company elects to utilize the job revitalization assessment fee as prescribed in Section 11 of this Act, a vote of the employees shall be taken by the approved company to approve or disapprove the withholding of the assessment. The vote shall be conducted in a manner approved by the authority.

(3) The agreement shall not be executed unless the assessment is approved by a majority of the employees voting;

(4) A majority vote of the employees of the approved company voting in favor of the assessment shall authorize the approved company to invoke the assessment on all employees of the approved company; and

(5) Each employee shall sign a written authorization in a form acceptable to the authority by which the employer is authorized to deduct the assessment from the employee's wages;

(6) Notwithstanding the provisions of this section, no approved company shall assess the wages of an employee who is party to an individual employment contract with the approved company, or the wages of an employee whose wages will fall below applicable federal or state minimum wage standards if the job revitalization assessment fee is imposed.

(7) The agreement shall not be transferable or assignable by the approved company without the expressed written consent of the authority.

SECTION 11. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) The approved company may require that each employee subject to the income tax imposed by KRS 141.020, whose job was preserved or created as a result of the project, as a condition of employment or the retention of employment, agree to pay a job revitalization assessment fee, not to exceed, during any fiscal year of the approved company, six percent (6%) of the gross wages of each employee subject to the income tax imposed by KRS 141.020 whose job was retained or created as a result of the project. However, if the agreement under Section 10(1)(d)2.b. of this Act is consummated, the job revitalization assessment fee shall be five percent (5%) of each employee's gross wages subject to the income tax imposed by KRS 141.020.

(2) Each assessed employee shall be entitled to a credit against his Kentucky income tax required to be withheld under KRS 141.310 equal to two-thirds (2/3) of the job revitalization assessment fee; or if the agreement set forth in Section 10(1)(d)2.b. of this Act is consummated, the credit shall be equal to four-fifths (4/5) of the job revitalization assessment fee.

(3) Each assessed employee also shall be entitled to a credit against his local occupational license fee in the form of a simultaneous adjustment of his local occupational license fee withholding equal to one-sixth (1/6) of the job revitalization assessment fee, unless the agreement set forth in Section 10(1)(d)2.b. of this Act is consummated.

(4) If an approved company shall elect to impose the assessment fee as a condition of employment or the retention of employment, it shall deduct the assessment from each paycheck of each employee subject to subsection (2) and (3) of this section.

(5) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at reasonable times the authority shall request, and shall file with the authority the documentation respecting the assessment the authority may require.

(6) Any assessment of the wages of the employees of an approved company pursuant to subsection (1) of this section shall lapse upon expiration or termination of the agreement.

Section 12. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971 shall deduct and withhold upon ***the*** [~~such~~] wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which ***the*** [~~such~~] wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of [~~such~~] wages by ***the*** [~~such~~] employer during the calendar year, or the date of commencement of employment with ***the*** [~~such~~] employer during ***the*** [~~such~~] year, or January 1 of ***the*** [~~such~~] year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make ***the*** [~~such~~] change in these tables [~~as~~] necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of ***the*** [~~such~~] calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter as if the appropriate average of the wages [~~so~~] estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter ***the*** [~~such~~] amount [~~as may be~~] necessary to adjust the amount actually deducted and withheld upon the wages of ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter to the amount that would be required to be deducted and withheld during ***the*** [~~such~~] quarter if the payroll period of the employee was quarterly.

(8) The cabinet ***may*** [~~is authorized to~~] provide by regulation, under ***the*** [~~such~~] conditions and to ***the*** [~~such~~] extent [~~as~~] it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to ***the*** [~~such~~] additional withholding. ***The*** [~~Such~~] additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) ***Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in Section 11 of this Act may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee. If the Kentucky income tax to be withheld from the employee under this***

section is greater than two-thirds (2/3) of the job assessment fee set forth above, or four-fifths (4/5) if the agreement under Section 10(1)(d)2.b. of this Act is consummated, the excess shall be withheld.

(10) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. ***The*** [~~Such~~] bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but [~~in no case~~] shall ***not*** exceed fifty thousand dollars ($50,000).

(11)[~~(10)~~] The Commonwealth may bring an action for a restraining order ***or a***[~~,~~] temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. ***The*** [~~Such~~] action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

SECTION 13. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in Section 1 of this Act;

(b) "Economic revitalization project" shall have the same meaning as set forth in Section 1 of this Act;

(c) "Tax credit" means the "tax credit" allowed in Section 10 of this Act.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14) including income from an economic revitalization project;

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040 on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic revitalization project; and

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in Section 10 of this Act.

(4) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic revitalization project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection; however the credit shall not exceed the limits set forth in Section 10 of this Act. If the tax computed herein exceeds the tax credit, the difference shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax, and the tax credit determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust.

(6) If the economic development project is a totally separate facility, net income attributable to the project for the purposes of subsections (3), (4), and (5) of this section shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility.

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only

the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility and overhead expenses apportioned to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9) The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of Sections 1 to 11 of this Act and the allowable income tax credit which an approved company may retain under Sections 1 to 11 of this Act.

Section 14. KRS 141.350 is amended to read as follows:

The amount deducted and withheld as tax under KRS 141.310 and KRS 141.315 during any calendar year upon the wages of any individual and the amount of credit described in KRS 152.282(2) ***or Section 11(2) of this Act*** shall be allowed as a credit to the recipient of the income against the tax imposed by KRS 141.020, for taxable years beginning in the calendar year. If more than one (1) taxable year begins in the calendar year, the amount shall be allowed as a credit against the tax for the last taxable year so beginning.

SB 316, AN ACT relating to economic development bonds for depressed or rural counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.260 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 152.262 to 152.298.

(2) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, [~~and~~] installation***, and rehabilitation*** of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, [~~and~~] installation***, and rehabilitation*** of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, [~~and~~] installation***, and rehabilitation*** of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, [~~and~~] installation***, and rehabilitation*** of an economic development project; and

(f) All other costs of a nature comparable to those described above.

(3) "Assessment" means the job development assessment fee authorized by KRS 152.262 to 152.298.

(4) "Authority" means the Kentucky Rural Economic Development Authority created by KRS 152.262 to 152.298.

(5) "Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.

(6) "Commonwealth" means the Commonwealth of Kentucky.

(7) "Economic development project" means and includes the acquisition of any real estate in a qualified county ***by either the authority or the approved company,*** and the construction***,*** [~~and~~] installation***, and rehabilitation*** thereon, and with respect thereto, of improvements***, including fixtures,*** and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water ***retention*** [~~detention~~], installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition***,*** [~~and~~] installation***, and rehabilitation*** of manufacturing facilities on the real estate, [~~for lease by the authority to an approved company~~] for use and occupancy by the approved company or its affiliates for manufacturing purposes.

(8) "Eligible company" means any corporation, partnership, sole proprietorship, ***or*** business trust[~~, or other entity~~] engaged in manufacturing which meets the standards promulgated by the authority pursuant to KRS 152.262 to 152.298.

(9) "Financing agreement" means any agreement entered into, pursuant to KRS 152.262 to 152.298, on behalf of the authority or other lenders or both and an approved company with respect to an economic development project.

(10) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution, and related office facilities in respect thereof; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of minerals.

(11) "Qualified county" means any county certified as such by the authority pursuant to KRS 152.262 to 152.298.

(12) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

(13) "Revenues" shall not be considered state funds.

Section 2. KRS 152.264 is amended to read as follows:

(1) There is hereby created and established an agency and instrumentality and political subdivision of the Commonwealth and a public body corporate and politic to be known as the Kentucky Rural Economic Development Authority, to perform essential governmental and public functions and purposes in improving and otherwise promoting the general welfare and material well-being of the people of the Commonwealth by the promotion, support, and financing of economic development projects in qualified counties. ***The authority shall be an independent agency of the Commonwealth reporting to the secretary of the Cabinet for Economic Development.***

(2) The authority shall be governed by a board of directors consisting of seven (7) members, two (2) of whom shall be the secretary of the Economic Development Cabinet and the secretary of the Finance and Administration Cabinet, as ex officio public directors, and five (5) of whom shall be private directors.

(3) Upon organization of the authority, the Governor of the Commonwealth shall appoint five (5) private directors to take office and to exercise all powers thereof immediately. Any appointee as private director shall serve until a qualified successor is appointed. In the case of a vacancy in the office of a private director, the Governor may appoint a person to hold office during the remainder of the term. The Governor may remove any private director in case of incompetency, neglect of duty, gross immorality, or malfeasance in office;

declare the office of the private director vacant; and appoint a person for the vacancy to hold office during the remainder of the term.

(4) The private directors of the authority shall each serve a term of four (4) years, except that the terms of the first appointments will be made as follows: two (2) private directors shall serve for a term of two (2) years, two (2) private directors shall serve for a term of three (3) years, and one (1) private director shall serve for a term of four (4) years.

(5) The secretary of the Finance and Administration Cabinet shall serve as the chairman and presiding officer of the authority and the secretary of the Economic Development Cabinet shall serve as the vice chairman of the authority and shall serve as presiding officer of the authority in the absence of its chairman. The authority may elect a secretary and treasurer, who are not required to be directors of the authority, each of whom shall serve at the pleasure of the authority and shall receive compensation to be paid from funds appropriated for the purpose. Any treasurer elected by the authority shall deliver to the authority and the Commonwealth a bond for his faithful accounting of all funds coming into his custody, from time to time, in the amount the authority shall prescribe. The bond shall be given by a corporate surety qualified to do business in the Commonwealth and the premium shall be paid by the authority.

(6) Each public director of the authority may designate an alternate to attend meetings and participate in the consideration of and voting upon business and transactions, in the same manner and subject to the same procedures as are set forth in KRS 56.450(5) for members and alternates of the State Property and Buildings Commission. Private directors shall not designate alternates.

(7) A majority of the board of directors of the authority, determined by excluding any existing vacancies from the total number of directors, shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes.

(8) Action shall be taken by the authority upon a vote of a majority of the directors present at a meeting, at which a quorum shall exist, called upon three (3) days' written notice to each director or upon the concurrence of any six (6) directors.

(9) The directors shall receive no compensation for their services in that capacity, but shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties as directors under KRS 152.262 to 152.298.

Section 3. KRS 152.266 is amended to read as follows:

The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 152.262 to 152.298, including, but without limiting the generality of the foregoing, the power:

(1) To provide and finance economic development projects pursuant to the provisions of KRS 152.262 to 152.298, and cooperate with qualified counties and eligible companies in order to promote, foster and support economic development within the qualified counties;

(2) To conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including without limitation, appointment of special committees, for the purpose of gathering information with respect to qualified counties, eligible companies, and economic development projects, for the purpose of making any determinations necessary or desirable in the furtherance of KRS 152.262 to 152.298;

(3) To negotiate the terms of and enter into financing agreements with approved companies, and in connection therewith to acquire, convey, sell, mortgage, finance, or otherwise dispose of any property, real or personal, ***loan bond proceeds or grant Kentucky income tax incentives and permit the use of job development assessment fees,*** in connection with an economic development project, and to pay, or cause to be paid, in accordance with the provisions of a financing agreement, the approved costs of an economic development project from any funds available therefor;

(4) To appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in KRS 152.262 to 152.298 and to delegate to the executive director the rights and powers of the authority required for the proper and desirable execution of the purpose of the authority;

(5) To consent, if it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the terms of any financing agreements of any kind to which the authority is a party;

(6) To include in any borrowing the amounts deemed necessary by the authority to pay financing charges, consultant, advisory and legal fees, fees for bond insurance, letters of credit or other forms of credit enhancement, investment advisory fees, trustees' fees, and other expenses necessary or incident to the borrowing ***or to the preparation, adoption, implementation, and enforcement of financing agreements, all such fees and expenses to be the responsibility of the approved company***;

(7) To make and publish administrative regulations respecting its programs and other administrative regulations necessary or appropriate to effectuate its purposes, and necessary to administer the procedures and program as provided for in KRS 152.262 to 152.298;

(8) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of KRS 152.262 to 152.298, including any financing agreements with state agencies or any political subdivisions of the Commonwealth under which funds may be pledged by or to the authority for the payment of its bonds;

(9) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source and to agree to, and to comply with, conditions attached thereto;

(10) To sue and be sued in its own name, plead and be impleaded;

(11) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(12) To adopt an official seal and alter the same at pleasure;

(13) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(14) To employ fiscal consultants, attorneys, appraisers, investment advisors, ***lenders,*** trustees and other consultants, agents and employees required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(15) To invest any funds held by the authority or its agents or trustees, including, but not limited to, the proceeds of bonds issued under KRS 152.262 to 152.298, reserve or other funds, or any moneys not required for immediate disbursement, and the investment income on any of the foregoing, in obligations authorized by KRS 386.020; and

(16) To exercise any or all of the general corporate powers of a nonprofit corporation organized under the laws of the Commonwealth and not inconsistent with the provisions of KRS 152.262 to 152.298.

Section 4. KRS 152.270 is amended to read as follows:

No director or officer of the authority shall be subject to any personal liability or accountability by reason of his execution of***:***

(1) Any bonds of the authority or the issuance thereof***; or***

(2) Any financing agreements on behalf of the authority.

Section 5. KRS 152.276 is amended to read as follows:

(1) Each year the authority shall, on the basis of the final unemployment figures calculated by the Department of Employment Services within the Cabinet for Human Resources, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in four (4) of the most recent five (5) consecutive years and shall certify those counties as qualified counties. [~~Any county with a population of nine thousand (9,000) or less, according to the annual population figure~~

~~calculated by the U.S. Bureau of the Census, may also be certified as a qualified county by the authority, regardless of the county's annual unemployment.~~] If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate above the state average, then the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 152.262 to 152.298 unless the financing agreements required herein are entered into by all parties within one (1) year after the date of the decertification.

(2) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects. These standards shall give greatest weight to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project. No economic development project which will ***result in the voluntary replacement of*** [~~replace~~] manufacturing facilities existing in the state shall be approved by the authority***; however, the authority may approve an economic development project that rehabilitates a manufacturing facility which has not been in operation for a period of three (3) consecutive months***. With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. After a diligent review of relevant materials and completion of its inquiries, the authority may by resolution of its board of directors designate an eligible company to be an approved company and authorize the undertaking of its economic development project in the qualified county.

Section 6. KRS 152.278 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. ***Subject to the inclusion of the mandatory provisions set forth below,*** the terms and provisions of each financing agreement shall be determined by negotiations between the authority, and the approved company.[~~, except that each financing agreement shall include the following provisions:~~]

(1) ***If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:***

(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and ***if the authority owns the economic development project, the authority*** may grant to the approved company an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise***; and***[~~.~~]

(b)[~~(2)~~] The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 152.262 to 152.298 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(c) 1.[~~(3)~~ ~~(a)~~] In consideration for financing agreement payment, the approved company may be permitted the following during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years.

a.[~~1.~~] A one hundred percent (100%) credit against the Kentucky [~~state~~] income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, ***the*** [~~such~~] credit not to exceed the total debt service paid under the respective financing agreement; plus

b.[~~2.~~] The aggregate assessment withheld by the approved company in each year.

2.[~~(b)~~] The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(d) 1.[~~(4)~~ ~~(a)~~] The financing agreement shall provide that the assessments, when added to the credit for the Kentucky [~~state~~ ~~corporate~~] income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year, however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2.[~~(b)~~] If during any fiscal year of the financing agreement the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(e)[~~(5)~~] The financing agreement shall provide ***in substance*** that:

1.[~~(a)~~] It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

2.[~~(b)~~] Upon [~~the~~] default by the approved company in ***any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees shall have the right, at its option, to declare the financing agreement or other such documents in default; and***

a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;

b. Pursue any remedy provided under the financing agreement or other such documents;

c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;

d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and

e. Pursue any other remedy at law to which it appears entitled.

f. All remedies provided in subsection (1)(e)2. of this section shall be deemed cumulative.

(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

(a) The term of a financing agreement shall not be longer than:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or

2. Twenty-five (25) years from the date of the original financing agreement.

3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.

(b) 1. The approved company may be permitted the following during the period of time in which the financing agreement is in effect:

a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project,

such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(c) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 152.280, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If, during any fiscal year of the financing agreement, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(d) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(e) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.

(f) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(e) of this section or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;

2. Pursue any remedy provided under the financing agreement, including termination thereof; and

3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(f) of this section shall be deemed cumulative [~~the obligation to render its annual payment, the authority shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and sell the economic development project at public or private sale, or to pursue any other remedies available under the Kentucky Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity~~].

Section 7. KRS 152.280 is amended to read as follows:

(1) The approved company shall be entitled to a credit against the Kentucky [~~corporate~~] income tax liability mandated by KRS Chapter 141, on ***any*** [~~such~~] income ***that*** [~~as~~] may result from the operation of the approved ***economic development*** project; the credit shall be equal to the total amount of the ***tax*** liability, not to exceed the total debt service paid***:***

(a) Under the [~~respective~~] financing agreement ***in connection with the economic development project financed by bonds as described in KRS 152.278(1); or***

(b) On loans or other financing, as described in KRS 152.278(2), incurred in connection with the economic development project, as described in KRS 152.278(2).

(2) ***Ninety (90)*** [~~Thirty (30)~~] days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority the ***Kentucky*** [~~state~~] income tax liability for the preceding year of each approved company with respect to an economic development project financed through the issuance of bonds ***or loans or other financing incurred in connection with the economic development project*** and the amounts of any tax credits taken pursuant to KRS 152.262 to 152.298.

Section 8. KRS 152.282 is amended to read as follows:

(1) The approved company may require that each employee, as a condition of employment, agrees to pay a job development assessment fee, not to exceed six percent (6%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of retiring***:***

(a) The bonds***, as described in KRS 152.278(1),*** which fund the economic development project***; or***

(b) The loans or other financing as described in KRS 152.278(2), incurred in connection with the economic development project.

(2) Each employee so assessed shall be entitled to credits against Kentucky income and local occupational taxes as follows:

(a) Two-thirds (2/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit of Kentucky income tax withheld as provided by KRS 141.350 ***and 141.310***;

(b) One-third (1/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit against any local occupational license fee incurred by the employee for the taxable year in the jurisdiction in which the economic development project is located. ***No credit, however, shall be allowed against any local occupational license fee imposed or dedicated solely to a local board of education.***

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall lapse on the date***:***

(a) The bonds***, as described in KRS 152.278(1),*** are retired***; or***

(b) Any loans or other financing, as described in KRS 152.278(2), incurred in connection with the economic development project mature or are prepaid in full.

Section 9. KRS 152.284 is amended to read as follows:

(1) The authority may issue in its own name, from time to time, for the purpose of financing the approved costs of an economic development project ***for which an election has been made under KRS 152.278(1),*** its bonds and may pledge for the payment thereof funds derived in respect of any financing agreement or other arrangement entered into by the authority and an approved company.

(2) In anticipation of the issuance of bonds, the authority may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on the notes shall be payable solely from the funds herein provided for the payment. Any notes may be made payable from the proceeds

of bonds or renewal notes; or, if bond or renewal note proceeds are not available, the notes may be paid from any available revenues or assets of the authority.

(3) The bonds of each issue may be made redeemable before maturity at the option of the authority at the price or prices and under the terms and conditions determined by the authority. Any bonds shall bear interest at the rate or rates determined by the authority. The authority shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. If any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons attached thereto, if any, shall cease to be such officer before the delivery thereof, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until the delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reconversion into coupon bonds of any bonds or notes registered as to both principal and interest, and for the exchange of registered and coupon bonds. Upon the adoption of a resolution of the authority authorizing the sale of its bonds, ***and the publication of a summary of the resolution, as adopted, in a newspaper authorized to publish official advertisements for the authority, and in a newspaper of general circulation in the qualified county in which the economic development is located, including the title of the resolution, the date the authority adopted the resolution, the maximum amount of bonds to be outstanding at any one time, the name of the approved company, and the fact that the bonds are to be retired from the proceeds derived from the financing agreement as set forth in KRS 152.262 to 152.298,*** the bonds may be sold in the manner, either at public or private sale, and for the price the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of KRS 152.262 to 152.298.

(4) Any bonds issued under the provisions of KRS 152.262 to 152.298 or any other applicable statute may be issued, either at public or private sale, as commercial paper revenue bonds or variable rate revenue bonds, in the same manner as provided in KRS 56.514(1), 56.514(3)(d) and 56.514(3)(e) for bonds and notes of the State Property and Buildings Commission issued to finance industrial development projects, or as bonds or notes which pay interest currently or which pay interest at times certain in the future or at maturity, as premium bonds or as discount bonds or as bonds or notes which are convertible into any of the foregoing at one (1) time or from time to time, or as bonds or notes combining one (1) or more of the foregoing features or containing other features which in the sound discretion of the authority shall be in the best interests of the public purposes of the authority under KRS 152.262 to 152.298.

(5) The proceeds of any bonds shall be used solely for the purposes for which issued and shall be disbursed in the manner and under the restrictions, if any, the authority may provide in the resolution authorizing the issuance of the bonds or in a trust indenture securing the same.

(6) The principal and interest on the bonds issued by the authority shall be payable solely and only from proceeds derived under a financing agreement and shall be secured solely by the economic development project, the proceeds of the financing agreement, and such other assets as may be available, but not including revenues of the state.

(7) Prior to the preparation of definitive certificates evidencing the bonds, the authority may, under like restrictions, issue interim receipts or temporary certificates, with or without coupons, exchangeable for definitive certificates when the certificates have been executed and are available for delivery. The authority may also provide for the replacement of any certificates which become mutilated or are destroyed or lost.

(8) The Finance and Administration Cabinet shall provide the authority such fiscal consultant services regarding revenue bond management as may be necessary.

SECTION 10. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The authority may execute and deliver a financing agreement and consummate the transactions described in the agreement upon:

(a) The adoption of a resolution by the authority authorizing the financial agreement, as described in KRS 152.278(2), with respect to an approved company and loans for other financing in connection with an economic development project; and

(b) The publication of a summary of the adopted resolution in:

1. A newspaper authorized to publish official advertisements for the authority; and

2. A newspaper of general circulation in the qualified county in which the economic development project is to be located.

(2) The summary of the resolution as provided in subsection (1)(b) of this section shall include the following:

(a) The date the resolution was adopted by the authority;

(b) The title of the resolution;

(c) The maximum amount of loans or other financing, as described in KRS 152.278(2), incurred in connection with the economic development project; and

(d) The name of the approved company.

Section 11. KRS 152.286 is amended to read as follows:

(1) Bonds issued under the provisions of KRS 152.262 to 152.298 shall not be deemed to constitute a debt, liability or obligation of the Commonwealth or of any political subdivision or taxing authority thereof or a pledge of the faith and credit of the Commonwealth or of any political subdivision or taxing authority, but shall be payable solely from the revenues or assets of the authority legally available for the purpose and pledged therefor. A bond issued under KRS 152.262 to 152.298 shall contain [~~on its face~~] a statement to the effect that the authority shall not be obligated to pay the same nor the ***purchase price of, or premium, or*** interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision or taxing authority thereof is pledged to the payment of the principal***, or purchase price*** of***, or premium,*** or the interest on bonds.

(2) Expenses incurred by the authority in carrying out the provisions of KRS 152.262 to 152.298 may be made payable from funds provided pursuant to KRS 152.262 to 152.298; and no liability shall be incurred by the authority beyond the extent to which moneys shall have been provided. Administrative fees may be collected pursuant to each financing agreement.

Section 12. KRS 152.292 is amended to read as follows:

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of KRS 152.262 to 152.298 shall be deemed to be trust funds to be held and applied solely as provided in KRS 152.262 to 152.298, and for the benefit of the holders of bonds issued under or pursuant to KRS 152.262 to 152.298. The resolution authorizing any bonds or the trust indenture securing them may provide that any of the moneys may be temporarily invested, pending the disbursement, and shall provide that any officer with whom, or any bank or trust company with which, the moneys shall be deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of KRS 152.262 to 152.298, subject to the ***administrative*** regulations ***promulgated by the authority in accordance with KRS Chapter 13A, and pursuant to*** KRS 152.262 to 152.298 and the resolution or trust indenture may provide. Any such moneys or any other moneys of the authority may be invested as provided in KRS 386.020.

Section 13. KRS 141.347 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 152.260;

(b) "Economic development project" shall have the same meaning as set forth in KRS 152.260;

(c) "Tax credit" means the "tax credit" allowed in KRS 152.260 to 152.298.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 152.278.

(4) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection; however the credit shall not exceed the limits set forth in KRS 152.278. If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust [~~State income tax that would otherwise be owed by the corporation to the Commonwealth, except for KRS 152.278(3)(a), by an approved company on the income generated or arising from an approved company operation or activity as an economic development project, shall be determined as follows:~~

~~(1) A corporation which is an approved company subject to income tax under KRS 141.040 shall compute the income tax due pursuant to KRS 141.010(13) to 141.010(14) including net income from the economic development project, subject to the applicable tax rate on taxable income.~~

~~(2) The corporation shall then compute the net income of the approved company as defined in subsection (1)(a) of this section excluding the net income from the economic development project subject to the applicable tax rate on taxable income.~~

~~(3) The difference between the tax computed in subsections (1) and (2) of this section equals the income tax to be permitted to be applied as a credit by an approved company toward income tax owed, such credit not to exceed the total debt service under the respective financing agreement~~].

(6)[~~(4)~~] ***If the economic development project is a totally separate facility,*** net income ***attributable to the project for the purposes of subsections (3), (4), and (5)*** [~~excluded from taxable income in computing the tax due under subsection (2)~~] of this section shall be determined under ***the*** [~~a~~] separate accounting method reflecting only the gross income, deductions, expenses, gains, and ***losses*** [~~credits~~] allowed under KRS Chapter 141 ***directly attributable to the facility and overhead expenses apportioned to the facility.***

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9)[~~(5)~~] The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 152.262 to 152.298 and the allowable income tax ***credit*** which an approved company may retain under KRS 152.262 to 152.298.

Section 14. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971 shall deduct and withhold upon ***the*** [~~such~~] wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which ***the*** [~~such~~] wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of [~~such~~] wages by ***the*** [~~such~~] employer during the calendar year, or the date of commencement of employment with ***the*** [~~such~~] employer during ***the*** [~~such~~] year, or January 1 of ***the*** [~~such~~] year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make ***the*** [~~such~~] change in these tables [~~as~~] necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of ***the*** [~~such~~] calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter as if the appropriate average of the wages [~~so~~] estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter ***the*** [~~such~~] amount [~~as may be~~] necessary to adjust the amount actually deducted and withheld upon the wages of ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter to the amount that would be required to be deducted and withheld during ***the*** [~~such~~] quarter if the payroll period of the employee was quarterly.

(8) The cabinet ***may*** [~~is authorized to~~] provide by regulation, under ***the*** [~~such~~] conditions and to ***the*** [~~such~~] extent [~~as~~] it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to ***the*** [~~such~~] additional withholding. ***The*** [~~Such~~] additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) ***Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 152.282 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee. If the Kentucky income tax to be withheld from the employee under this section is greater than two-thirds (2/3) of the job assessment fee set forth above, the excess shall be withheld.***

(10) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. ***The*** [~~Such~~] bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but [~~in no case~~] shall ***not*** exceed fifty thousand dollars ($50,000).

(11)[~~(10)~~] The Commonwealth may bring an action for a restraining order ***or a***[~~,~~] temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. ***The*** [~~Such~~] action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

The Committee Substitute to **SB 316** is as follows:

SB 316, AN ACT relating to economic development bonds for depressed or rural counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 152.260 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 152.262 to 152.298.

(2) "Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, [~~and~~] installation***, and rehabilitation*** of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, [~~and~~] installation***, and rehabilitation*** of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, [~~and~~] installation***, and rehabilitation*** of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, [~~and~~] installation***, and rehabilitation*** of an economic development project; and

(f) All other costs of a nature comparable to those described above.

(3) "Assessment" means the job development assessment fee authorized by KRS 152.262 to 152.298.

(4) "Authority" means the Kentucky Rural Economic Development Authority created by KRS 152.262 to 152.298.

(5) "Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.

(6) "Commonwealth" means the Commonwealth of Kentucky.

(7) "Economic development project" means and includes the acquisition of any real estate in a qualified county ***by either the authority or the approved company,*** and the construction***,*** [~~and~~] installation***, and rehabilitation*** thereon, and with respect thereto, of improvements***, including fixtures,*** and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site

work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water ***retention*** [~~detention~~], installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition***,*** [~~and~~] installation***, and rehabilitation*** of manufacturing facilities on the real estate, [~~for lease by the authority to an approved company~~] for use and occupancy by the approved company or its affiliates for manufacturing purposes.

(8) "Eligible company" means any corporation, partnership, sole proprietorship, ***or*** business trust[~~, or other entity~~] engaged in manufacturing which meets the standards promulgated by the authority pursuant to KRS 152.262 to 152.298.

(9) "Financing agreement" means any agreement entered into, pursuant to KRS 152.262 to 152.298, on behalf of the authority or other lenders or both and an approved company with respect to an economic development project.

(10) "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity functionally related thereto, together with the storage, warehousing, distribution, and related office facilities in respect thereof; however, in no event shall "manufacturing" include mining, coal or mineral processing, or extraction of minerals.

(11) "Qualified county" means any county certified as such by the authority pursuant to KRS 152.262 to 152.298.

(12) "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

(13) "Revenues" shall not be considered state funds.

Section 2. KRS 152.264 is amended to read as follows:

(1) There is hereby created and established an agency and instrumentality and political subdivision of the Commonwealth and a public body corporate and politic to be known as the Kentucky Rural Economic Development Authority, to perform essential governmental and public functions and purposes in improving and otherwise promoting the general welfare and material well-being of the people of the Commonwealth by the promotion, support, and financing of economic development projects in qualified counties. ***The authority shall be an independent agency of the Commonwealth reporting to the secretary of the Cabinet for Economic Development.***

(2) The authority shall be governed by a board of directors consisting of seven (7) members, two (2) of whom shall be the secretary of the Economic Development Cabinet and the secretary of the Finance and Administration Cabinet, as ex officio public directors, and five (5) of whom shall be private directors.

(3) Upon organization of the authority, the Governor of the Commonwealth shall appoint five (5) private directors to take office and to exercise all powers thereof immediately. Any appointee as private director shall serve until a qualified successor is appointed. In the case of a vacancy in the office of a private director, the Governor may appoint a person to hold office during the remainder of the term. The Governor may remove any private director in case of incompetency, neglect of duty, gross immorality, or malfeasance in office; declare the office of the private director vacant; and appoint a person for the vacancy to hold office during the remainder of the term.

(4) The private directors of the authority shall each serve a term of four (4) years, except that the terms of the first appointments will be made as follows: two (2) private directors shall serve for a term of two (2) years, two (2) private directors shall serve for a term of three (3) years, and one (1) private director shall serve for a term of four (4) years.

(5) The secretary of the Finance and Administration Cabinet shall serve as the chairman and presiding officer of the authority and the secretary of the Economic Development Cabinet shall serve as the vice chairman of the authority and shall serve as presiding officer of the authority in the absence of its chairman. The authority may elect a secretary and treasurer, who are not required to be directors of the authority, each of whom shall serve at the pleasure of the authority and shall receive compensation to be paid from funds appropriated for the purpose. Any treasurer elected by the authority shall deliver to the authority and the

Commonwealth a bond for his faithful accounting of all funds coming into his custody, from time to time, in the amount the authority shall prescribe. The bond shall be given by a corporate surety qualified to do business in the Commonwealth and the premium shall be paid by the authority.

(6) Each public director of the authority may designate an alternate to attend meetings and participate in the consideration of and voting upon business and transactions, in the same manner and subject to the same procedures as are set forth in KRS 56.450(5) for members and alternates of the State Property and Buildings Commission. Private directors shall not designate alternates.

(7) A majority of the board of directors of the authority, determined by excluding any existing vacancies from the total number of directors, shall constitute a quorum for the purposes of conducting its business and exercising its powers and for all other purposes.

(8) Action shall be taken by the authority upon a vote of a majority of the directors present at a meeting, at which a quorum shall exist, called upon three (3) days' written notice to each director or upon the concurrence of any six (6) directors.

(9) The directors shall receive no compensation for their services in that capacity, but shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties as directors under KRS 152.262 to 152.298.

Section 3. KRS 152.266 is amended to read as follows:

The authority shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 152.262 to 152.298, including, but without limiting the generality of the foregoing, the power:

(1) To provide and finance economic development projects pursuant to the provisions of KRS 152.262 to 152.298, and cooperate with qualified counties and eligible companies in order to promote, foster and support economic development within the qualified counties;

(2) To conduct hearings and inquiries, in the manner and by the methods as it deems desirable, including without limitation, appointment of special committees, for the purpose of gathering information with respect to qualified counties, eligible companies, and economic development projects, for the purpose of making any determinations necessary or desirable in the furtherance of KRS 152.262 to 152.298;

(3) To negotiate the terms of and enter into financing agreements with approved companies, and in connection therewith to acquire, convey, sell, mortgage, finance, or otherwise dispose of any property, real or personal, ***loan bond proceeds or grant Kentucky income tax incentives and permit the use of job development assessment fees,*** in connection with an economic development project, and to pay, or cause to be paid, in accordance with the provisions of a financing agreement, the approved costs of an economic development project from any funds available therefor;

(4) To appoint an executive director, who shall be an officer of the authority, to administer the business of the authority as provided in KRS 152.262 to 152.298 and to delegate to the executive director the rights and powers of the authority required for the proper and desirable execution of the purpose of the authority;

(5) To consent, if it deems it necessary or desirable in the fulfillment of its purposes, to the modification of the terms of any financing agreements of any kind to which the authority is a party;

(6) To include in any borrowing the amounts deemed necessary by the authority to pay financing charges, consultant, advisory and legal fees, fees for bond insurance, letters of credit or other forms of credit enhancement, investment advisory fees, trustees' fees, and other expenses necessary or incident to the borrowing ***or to the preparation, adoption, implementation, and enforcement of financing agreements, all such fees and expenses to be the responsibility of the approved company***;

(7) To make and publish administrative regulations respecting its programs and other administrative regulations necessary or appropriate to effectuate its purposes, and necessary to administer the procedures and program as provided for in KRS 152.262 to 152.298;

(8) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership, or other organization or entity, necessary or appropriate to accomplish the purposes of KRS 152.262 to 152.298, including any financing agreements with state agencies or any political subdivisions of the Commonwealth under which funds may be pledged by or to the authority for the payment of its bonds;

(9) To accept gifts, devises, bequests, grants, loans, appropriations, revenue sharing, other financing and assistance and any other aid from any source and to agree to, and to comply with, conditions attached thereto;

(10) To sue and be sued in its own name, plead and be impleaded;

(11) To maintain an office in the city of Frankfort and at any other place or places as it may determine;

(12) To adopt an official seal and alter the same at pleasure;

(13) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(14) To employ fiscal consultants, attorneys, appraisers, investment advisors, ***lenders,*** trustees and other consultants, agents and employees required in the judgment of the authority and to fix and pay their compensation from funds available to the authority therefor;

(15) To invest any funds held by the authority or its agents or trustees, including, but not limited to, the proceeds of bonds issued under KRS 152.262 to 152.298, reserve or other funds, or any moneys not required for immediate disbursement, and the investment income on any of the foregoing, in obligations authorized by KRS 386.020; and

(16) To exercise any or all of the general corporate powers of a nonprofit corporation organized under the laws of the Commonwealth and not inconsistent with the provisions of KRS 152.262 to 152.298.

Section 4. KRS 152.270 is amended to read as follows:

No director or officer of the authority shall be subject to any personal liability or accountability by reason of his execution of***:***

(1) Any bonds of the authority or the issuance thereof***; or***

(2) Any financing agreements on behalf of the authority.

Section 5. KRS 152.276 is amended to read as follows:

(1) Each year the authority shall, on the basis of the final unemployment figures calculated by the Department of Employment Services within the Cabinet for Human Resources, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in four (4) of the most recent five (5) consecutive years and shall certify those counties as qualified counties. [~~Any county with a population of nine thousand (9,000) or less, according to the annual population figure calculated by the U.S. Bureau of the Census, may also be certified as a qualified county by the authority, regardless of the county's annual unemployment.~~] If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate above the state average, then the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 152.262 to 152.298 unless the financing agreements required herein are entered into by all parties within one (1) year after the date of the decertification.

(2) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects. These standards shall give greatest weight to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project. No economic development project which will ***result in the voluntary replacement of*** [~~replace~~] manufacturing facilities existing in the state shall be approved by the authority***; however, the authority may approve an***

economic development project that rehabilitates a manufacturing facility which has not been in operation for a period of three (3) consecutive months. With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. After a diligent review of relevant materials and completion of its inquiries, the authority may by resolution of its board of directors designate an eligible company to be an approved company and authorize the undertaking of its economic development project in the qualified county.

Section 6. KRS 152.278 is amended to read as follows:

The authority may enter into, with any approved company, a financing agreement with respect to its economic development project. ***Subject to the inclusion of the mandatory provisions set forth below,*** the terms and provisions of each financing agreement shall be determined by negotiations between the authority, and the approved company.[~~, except that each financing agreement shall include the following provisions:~~]

(1) ***If an eligible company, at the time of submission of its application to the authority to become an approved company, requests the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with the issuance of bonds by the authority shall include the following provisions:***

(a) The term of a financing agreement shall not be less than the last maturity of the bonds issued with respect to the economic development project, except that the financing agreement may terminate upon the earlier redemption of all of the bonds issued with respect to the economic development project and ***if the authority owns the economic development project, the authority*** may grant to the approved company an option to purchase, for the consideration the authority may approve, the economic development project from the authority upon the termination of the financing agreement. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refunding of the correlative bonds or otherwise***; and***[~~.~~]

(b)[~~(2)~~] The financing agreement shall specify that the annual obligations of the approved company pursuant to KRS 152.262 to 152.298 shall equal in each year the annual debt service for that year on the bonds issued with respect to the economic development project; and the approved company shall pay such obligation of the financing agreement to the trustee for bonds issued for the benefit of the approved company, at such time and in such amounts sufficient to amortize such bonds.

(c) 1.[~~(3)~~ ~~(a)~~] In consideration for financing agreement payment, the approved company may be permitted the following during the period of time in which the financing agreement is in effect, not to exceed twenty-five (25) years.

a.[~~1.~~] A one hundred percent (100%) credit against the Kentucky [~~state~~] income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, ***the*** [~~such~~] credit not to exceed the total debt service paid under the respective financing agreement; plus

b.[~~2.~~] The aggregate assessment withheld by the approved company in each year.

2.[~~(b)~~] The income tax credited to the approved company referred to herein shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(d) 1.[~~(4)~~ ~~(a)~~] The financing agreement shall provide that the assessments, when added to the credit for the Kentucky [~~state corporate~~] income tax herein granted, shall not exceed the total financing agreement annual payment by the approved company in any year, however, to the extent that financing agreement annual payments exceed credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2.[~~(b)~~] If during any fiscal year of the financing agreement the total of the income tax credit granted to the approved company plus the assessment collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(e)[~~(5)~~] The financing agreement shall provide ***in substance*** that:

1.[~~(a)~~] It may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to such effect; and

2.[~~(b)~~] Upon [~~the~~] default by the approved company in ***any obligations under the financing agreement or other documents evidencing, securing, or related to the approved company's obligations, the authority, or any of its assignees shall have the right, at its option, to declare the financing agreement or other such documents in default; and***

a. Accelerate and declare the total of all such payments due by the approved company and sell the economic development project at public, private, or judicial sale;

b. Pursue any remedy provided under the financing agreement or other such documents;

c. Pursue all other remedies available to it under the Kentucky Uniform Commercial Code;

d. Be entitled to the appointment of a receiver by the Circuit Court wherein any part of the economic development project is located; and

e. Pursue any other remedy at law to which it appears entitled.

f. All remedies provided in subsection (1)(e)2. of this section shall be deemed cumulative.

(2) If an eligible company, at the time of submission of its application to the authority to become an approved company, does not request the authority in writing to issue bonds on its behalf, then each financing agreement used in connection with loans or other financing (other than bonds issued by the authority for which subsection (1) of this section shall be used) shall include the following provisions:

(a) The term of a financing agreement shall not be longer than:

1. The maturity of any loan or other financing incurred in connection with the economic development project, except that the financing agreement may terminate upon the earlier prepayment of all loans or other financing incurred in connection with the economic development project; or

2. Twenty-five (25) years from the date of the original financing agreement.

3. Nothing in this subsection shall limit the extension of the term of a financing agreement if there is a refinancing of the loans or other financing. The authority shall not own an economic development project that is the subject of this form of financing agreement.

(b) 1. The approved company may be permitted the following during the period of time in which the financing agreement is in effect:

a. A one-hundred percent (100%) credit against the Kentucky income tax that otherwise would be owed in the year, as determined under KRS 141.347, to the Commonwealth by the approved company on the income of the approved company generated by or arising out of the economic development project, such credit not to exceed the total debt service paid with respect to the loans or other financing incurred in connection with the economic development project; plus

b. The aggregate assessment withheld by the approved company in each year.

2. The income tax credited to the approved company shall be credited in the fiscal year of the financing agreement in which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed in KRS 141.042.

(c) 1. The financing agreement shall provide that the assessments, when added to the credit for the Kentucky income tax as provided in KRS 152.280, shall not exceed the total annual debt service payments of the approved company with respect to the loans or other financing incurred in connection with the economic development project in any year; however, to the extent that such annual debt service payments exceed

credits received and assessments collected in any year, the excess payment may be recouped from excess credits or assessment collections in succeeding years.

2. If, during any fiscal year of the financing agreement, the total of the income tax credit granted to the approved company, plus the assessment collected from the wages of the employees, equals the annual debt service payments with respect to the loans or other financing incurred in connection with the economic development project, and if all excess payments with respect to the loans or other financing incurred in connection with the economic development project accumulated in prior years have been recouped, the assessment collected from the wages of the employees shall cease for the remainder of the fiscal year of the financing agreement.

(d) The financing agreement shall provide in substance that it may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(e) The financing agreement shall provide that an approved company shall require of any lender to the approved company funding the loans or other financing incurred in connection with the economic development project written evidence to be provided to the authority of payments of all annual debt service to such lender. Such evidence shall be provided to the authority within forty-five (45) days after the end of each fiscal year of the financing agreement.

(f) The financing agreement shall provide that if an approved company fails to comply with its respective obligations under the financing agreement or that the lender to an approved company fails to comply with its requirements set forth in subsection (2)(e) of this section or is declared in default under the loans or other financing incurred in connection with the economic development project, then the authority, or any of its assignees, shall have the right, at its option, to:

1. Suspend the availability of the income tax credits and job development assessment fees to the approved company;

2. Pursue any remedy provided under the financing agreement, including termination thereof; and

3. Pursue any other remedy at law to which it appears entitled.

(3) All remedies provided in subsection (2)(f) of this section shall be deemed cumulative [~~the obligation to render its annual payment, the authority shall have the right, at its option, to declare the financing agreement in default and to accelerate the total of all annual payments that are to be made or to terminate the financing agreement and sell the economic development project at public or private sale, or to pursue any other remedies available under the Kentucky Uniform Commercial Code, as from time to time amended, or otherwise available in law or equity~~].

Section 7. KRS 152.280 is amended to read as follows:

(1) The approved company shall be entitled to a credit against the Kentucky [~~corporate~~] income tax liability mandated by KRS Chapter 141, on ***any*** [~~such~~] income ***that*** [~~as~~] may result from the operation of the approved ***economic development*** project; the credit shall be equal to the total amount of the ***tax*** liability, not to exceed the total debt service paid***:***

(a) Under the [~~respective~~] financing agreement ***in connection with the economic development project financed by bonds as described in KRS 152.278(1); or***

(b) On loans or other financing, as described in KRS 152.278(2), incurred in connection with the economic development project, as described in KRS 152.278(2).

(2) ***Ninety (90)*** [~~Thirty (30)~~] days after the filing of the tax return of the approved company, the Revenue Cabinet of the Commonwealth shall certify to the authority the ***Kentucky*** [~~state~~] income tax liability for the preceding year of each approved company with respect to an economic development project financed through the issuance of bonds ***or loans or other financing incurred in connection with the economic development project*** and the amounts of any tax credits taken pursuant to KRS 152.262 to 152.298.

Section 8. KRS 152.282 is amended to read as follows:

(1) The approved company may require that each employee, as a condition of employment, agrees to pay a job development assessment fee, not to exceed six percent (6%) of the gross wages of each employee whose job was created as a result of the economic development project, for the purpose of retiring*:*

(a) The bonds***, as described in KRS 152.278(1),*** which fund the economic development project***; or***

(b) The loans or other financing as described in KRS 152.278(2), incurred in connection with the economic development project.

(2) Each employee so assessed shall be entitled to credits against Kentucky income and local occupational taxes as follows:

(a) Two-thirds (2/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit of Kentucky income tax withheld as provided by KRS 141.350 ***and 141.310***;

(b) One-third (1/3) of the job development assessment fee withheld from wages during the calendar year shall be permitted as a credit against any local occupational license fee incurred by the employee for the taxable year in the jurisdiction in which the economic development project is located. ***No credit, however, shall be allowed against any local occupational license fee imposed or dedicated solely to a local board of education.***

(3) If an approved company shall elect to impose the assessment as a condition of employment, it shall deduct the assessment from each paycheck of each employee.

(4) Any approved company collecting an assessment as provided in subsection (1) of this section shall make its payroll books and records available to the authority at such reasonable times as the authority shall request and shall file with the authority documentation respecting the assessment as the authority may require.

(5) Any assessment of the wages of employees of an approved company in connection with their employment at an economic development project pursuant to subsection (1) of this section shall lapse on the date*:*

(a) The bonds***, as described in KRS 152.278(1),*** are retired***; or***

(b) Any loans or other financing, as described in KRS 152.278(2), incurred in connection with the economic development project mature or are prepaid in full.

Section 9. KRS 152.284 is amended to read as follows:

(1) The authority may issue in its own name, from time to time, for the purpose of financing the approved costs of an economic development project ***for which an election has been made under KRS 152.278(1),*** its bonds and may pledge for the payment thereof funds derived in respect of any financing agreement or other arrangement entered into by the authority and an approved company.

(2) In anticipation of the issuance of bonds, the authority may provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on the notes shall be payable solely from the funds herein provided for the payment. Any notes may be made payable from the proceeds of bonds or renewal notes; or, if bond or renewal note proceeds are not available, the notes may be paid from any available revenues or assets of the authority.

(3) The bonds of each issue may be made redeemable before maturity at the option of the authority at the price or prices and under the terms and conditions determined by the authority. Any bonds shall bear interest at the rate or rates determined by the authority. The authority shall determine the form and manner of execution of the bonds, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. If any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons attached thereto, if any, shall cease to be such officer before the delivery thereof, the signature or the facsimile shall nevertheless be valid and sufficient for all purposes as if he had remained in office until the delivery. The authority may also provide for the authentication of the bonds by a trustee or fiscal agent. The bonds may be issued in coupon or in registered form, or both, as the authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone and as to both principal and interest, and for the reconversion into coupon bonds

of any bonds or notes registered as to both principal and interest, and for the exchange of registered and coupon bonds. Upon the adoption of a resolution of the authority authorizing the sale of its bonds, ***and the publication of a summary of the resolution, as adopted, in a newspaper authorized to publish official advertisements for the authority, and in a newspaper of general circulation in the qualified county in which the economic development is located, including the title of the resolution, the date the authority adopted the resolution, the maximum amount of bonds to be outstanding at any one time, the name of the approved company, and the fact that the bonds are to be retired from the proceeds derived from the financing agreement as set forth in KRS 152.262 to 152.298,*** the bonds may be sold in the manner, either at public or private sale, and for the price the authority shall determine to be for the best interest of the authority and to best effectuate the purposes of KRS 152.262 to 152.298.

(4) Any bonds issued under the provisions of KRS 152.262 to 152.298 or any other applicable statute may be issued, either at public or private sale, as commercial paper revenue bonds or variable rate revenue bonds, in the same manner as provided in KRS 56.514(1), 56.514(3)(d) and 56.514(3)(e) for bonds and notes of the State Property and Buildings Commission issued to finance industrial development projects, or as bonds or notes which pay interest currently or which pay interest at times certain in the future or at maturity, as premium bonds or as discount bonds or as bonds or notes which are convertible into any of the foregoing at one (1) time or from time to time, or as bonds or notes combining one (1) or more of the foregoing features or containing other features which in the sound discretion of the authority shall be in the best interests of the public purposes of the authority under KRS 152.262 to 152.298.

(5) The proceeds of any bonds shall be used solely for the purposes for which issued and shall be disbursed in the manner and under the restrictions, if any, the authority may provide in the resolution authorizing the issuance of the bonds or in a trust indenture securing the same.

(6) The principal and interest on the bonds issued by the authority shall be payable solely and only from proceeds derived under a financing agreement and shall be secured solely by the economic development project, the proceeds of the financing agreement, and such other assets as may be available, but not including revenues of the state.

(7) Prior to the preparation of definitive certificates evidencing the bonds, the authority may, under like restrictions, issue interim receipts or temporary certificates, with or without coupons, exchangeable for definitive certificates when the certificates have been executed and are available for delivery. The authority may also provide for the replacement of any certificates which become mutilated or are destroyed or lost.

(8) The Finance and Administration Cabinet shall provide the authority such fiscal consultant services regarding revenue bond management as may be necessary.

SECTION 10. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) The authority may execute and deliver a financing agreement and consummate the transactions described in the agreement upon:

(a) The adoption of a resolution by the authority authorizing the financial agreement, as described in KRS 152.278(2), with respect to an approved company and loans for other financing in connection with an economic development project; and

(b) The publication of a summary of the adopted resolution in:

1. A newspaper authorized to publish official advertisements for the authority; and

2. A newspaper of general circulation in the qualified county in which the economic development project is to be located.

(2) The summary of the resolution as provided in subsection (1)(b) of this section shall include the following:

(a) The date the resolution was adopted by the authority;

(b) The title of the resolution;

(c) The maximum amount of loans or other financing, as described in KRS 152.278(2), incurred in connection with the economic development project; and

(d) The name of the approved company.

Section 11. KRS 152.286 is amended to read as follows:

(1) Bonds issued under the provisions of KRS 152.262 to 152.298 shall not be deemed to constitute a debt, liability or obligation of the Commonwealth or of any political subdivision or taxing authority thereof or a pledge of the faith and credit of the Commonwealth or of any political subdivision or taxing authority, but shall be payable solely from the revenues or assets of the authority legally available for the purpose and pledged therefor. A bond issued under KRS 152.262 to 152.298 shall contain [~~on its face~~] a statement to the effect that the authority shall not be obligated to pay the same nor the ***purchase price of, or premium, or*** interest thereon except from the revenues or assets pledged therefor and that neither the faith and credit nor the taxing power of the Commonwealth or any political subdivision or taxing authority thereof is pledged to the payment of the principal***, or purchase price*** of***, or premium,*** or the interest on bonds.

(2) Expenses incurred by the authority in carrying out the provisions of KRS 152.262 to 152.298 may be made payable from funds provided pursuant to KRS 152.262 to 152.298; and no liability shall be incurred by the authority beyond the extent to which moneys shall have been provided. Administrative fees may be collected pursuant to each financing agreement.

Section 12. KRS 152.292 is amended to read as follows:

Notwithstanding any other provisions of law to the contrary, all moneys received pursuant to the authority of KRS 152.262 to 152.298 shall be deemed to be trust funds to be held and applied solely as provided in KRS 152.262 to 152.298, and for the benefit of the holders of bonds issued under or pursuant to KRS 152.262 to 152.298. The resolution authorizing any bonds or the trust indenture securing them may provide that any of the moneys may be temporarily invested, pending the disbursement, and shall provide that any officer with whom, or any bank or trust company with which, the moneys shall be deposited shall act as trustee of the moneys and shall hold and apply them for the purposes of KRS 152.262 to 152.298, subject to the ***administrative*** regulations ***promulgated by the authority in accordance with KRS Chapter 13A, and pursuant to*** KRS 152.262 to 152.298 and the resolution or trust indenture may provide. Any such moneys or any other moneys of the authority may be invested as provided in KRS 386.020.

Section 13. KRS 141.347 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Approved company" shall have the same meaning as set forth in KRS 152.260;

(b) "Economic development project" shall have the same meaning as set forth in KRS 152.260;

(c) "Tax credit" means the "tax credit" allowed in KRS 152.260 to 152.298.

(2) An approved company shall determine the income tax credit as provided in this section.

(3) An approved company which is an individual sole proprietorship subject to tax under KRS 141.020 or a corporation subject to tax under KRS 141.040(1) shall:

(a) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), including income from an economic development project; and

(b) Compute the income tax due at the applicable tax rates as provided by KRS 141.020 or 141.040, on net income as defined by KRS 141.010(11) or taxable net income as defined by KRS 141.010(14), excluding net income attributable to an economic development project.

(c) The tax credit shall be the amount by which the tax computed under paragraph (a) of this subsection exceeds the tax computed under paragraph (b) of this subsection; however, the credit shall not exceed the limits set forth in KRS 152.278.

(4) Notwithstanding any other provisions of this chapter, an approved company which is an S-corporation, partnership, or trust shall be subject to income tax on the net income attributable to an economic development project at the rates provided in KRS 141.020(2), and the amount of the tax credit shall be the same as the amount of the tax computed in this subsection; however the credit shall not exceed the limits set forth in KRS 152.278. If the tax computed in this section exceeds the credit, the excess shall be paid by the S-corporation, partnership, or trust at the times provided by KRS 141.160 for filing the returns.

(5) Notwithstanding any other provisions of this chapter, the net income subject to tax and the tax credit determined under subsection (4) of this section shall be excluded in determining each shareholder's, partner's, or beneficiaries' distributive share of net income or credit of an S-corporation, partnership, or trust [~~State income tax that would otherwise be owed by the corporation to the Commonwealth, except for KRS 152.278(3)(a), by an approved company on the income generated or arising from an approved company operation or activity as an economic development project, shall be determined as follows:~~

~~(1) A corporation which is an approved company subject to income tax under KRS 141.040 shall compute the income tax due pursuant to KRS 141.010(13) to 141.010(14) including net income from the economic development project, subject to the applicable tax rate on taxable income.~~

~~(2) The corporation shall then compute the net income of the approved company as defined in subsection (1)(a) of this section excluding the net income from the economic development project subject to the applicable tax rate on taxable income.~~

~~(3) The difference between the tax computed in subsections (1) and (2) of this section equals the income tax to be permitted to be applied as a credit by an approved company toward income tax owed, such credit not to exceed the total debt service under the respective financing agreement~~].

(6)[~~(4)~~] ***If the economic development project is a totally separate facility,*** net income ***attributable to the project for the purposes of subsections (3), (4), and (5)*** [~~excluded from taxable income in computing the tax due under subsection (2)~~] of this section shall be determined under ***the*** [~~a~~] separate accounting method reflecting only the gross income, deductions, expenses, gains, and ***losses*** [~~credits~~] allowed under KRS Chapter 141 ***directly attributable to the facility and overhead expenses apportioned to the facility.***

(7) If the economic development project is an expansion to a previously existing facility, net income attributable to the entire facility shall be determined under the separate accounting method reflecting only the gross income, deductions, expenses, gains, and losses allowed under KRS Chapter 141 directly attributable to the facility, and the net income attributable to the economic development project for the purposes of subsections (3), (4), and (5) of this section shall be determined by apportioning the separate accounting net income of the entire facility to the economic development project by a formula approved by the Revenue Cabinet.

(8) If an approved company can show to the satisfaction of the Revenue Cabinet that the nature of the operations and activities of the approved company are such that it is not practical to use the separate accounting method to determine the net income from the facility at which the economic development project is located, the approved company shall determine net income from the economic development project using an alternative method approved by the Revenue Cabinet.

(9)[~~(5)~~] The Revenue Cabinet may issue administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of KRS 152.262 to 152.298 and the allowable income tax ***credit*** which an approved company may retain under KRS 152.262 to 152.298.

Section 14. KRS 141.310 is amended to read as follows:

(1) Every employer making payment of wages on or after January 1, 1971 shall deduct and withhold upon ***the*** [~~such~~] wages a tax determined under KRS 141.315 or by the tables authorized by KRS 141.370.

(2) If wages are paid with respect to a period which is not a payroll period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days, including Sundays and holidays, equal to the number of days in the period with respect to which ***the*** [~~such~~] wages are paid.

(3) In any case in which wages are paid by an employer without regard to any payroll period or other period, the amount to be deducted and withheld shall be that applicable in the case of a miscellaneous payroll period containing a number of days equal to the number of days, including Sundays and holidays, which have elapsed since the date of the last payment of [~~such~~] wages by ***the*** [~~such~~] employer during the calendar year, or the date of commencement of employment with ***the*** [~~such~~] employer during ***the*** [~~such~~] year, or January 1 of ***the*** [~~such~~] year, whichever is the later.

(4) In determining the amount to be deducted and withheld under this section, the wages may, at the election of the employer, be computed to the nearest dollar.

(5) The tables mentioned in subsection (1) of this section take into consideration the deductible federal income tax. If Congress changes substantially the federal income tax, the cabinet shall make ***the*** [~~such~~] change in these tables [~~as~~] necessary to compensate for any increase or decrease in the deductible federal income tax.

(6) The cabinet may permit the use of accounting machines to calculate the proper amount to be deducted from wages when the calculation so permitted produces substantially the same result set forth in the tables authorized by KRS 141.370. Prior approval of ***the*** [~~such~~] calculation shall be secured from the cabinet at least thirty days before the first payroll period for which it is to be used.

(7) The cabinet may, by regulations, authorize employers:

(a) To estimate the wages which will be paid to any employee in any quarter of the calendar year;

(b) To determine the amount to be deducted and withheld upon each payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter as if the appropriate average of the wages [~~so~~] estimated constituted the actual wages paid; and

(c) To deduct and withhold upon any payment of wages to ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter ***the*** [~~such~~] amount [~~as may be~~] necessary to adjust the amount actually deducted and withheld upon the wages of ***the*** [~~such~~] employee during ***the*** [~~such~~] quarter to the amount that would be required to be deducted and withheld during ***the*** [~~such~~] quarter if the payroll period of the employee was quarterly.

(8) The cabinet ***may*** [~~is authorized to~~] provide by regulation, under ***the*** [~~such~~] conditions and to ***the*** [~~such~~] extent [~~as~~] it deems proper, for withholding in addition to that otherwise required under this section and KRS 141.315 in cases in which the employer and the employee agree to ***the*** [~~such~~] additional withholding. ***The*** [~~Such~~] additional withholding shall for all purposes be considered tax required to be deducted and withheld under this chapter.

(9) ***Effective January 1, 1992, any employer required by this section to withhold Kentucky income tax who assesses and withholds from employees the job assessment fee provided in KRS 152.282 may offset a portion of the fee against the Kentucky income tax required to be withheld from the employee under this section. The amount of the offset shall be two-thirds (2/3) of the amount of the assessment fee withheld from the employee. If the Kentucky income tax to be withheld from the employee under this section is greater than two-thirds (2/3) of the job assessment fee set forth above, the excess shall be withheld.***

(10) Any employer required by this section to withhold Kentucky income tax may be required to post a bond with the cabinet. ***The*** [~~Such~~] bond shall be a corporate surety bond or cash. The amount of the bond shall be determined by the cabinet, but [~~in no case~~] shall ***not*** exceed fifty thousand dollars ($50,000).

(11)[~~(10)~~] The Commonwealth may bring an action for a restraining order ***or a***[~~,~~] temporary or permanent injunction to restrain or enjoin the operation of an employer's business until the bond is posted or the tax required to be withheld is paid or both. ***The*** [~~Such~~] action may be brought in the Franklin Circuit Court or in the Circuit Court having jurisdiction of the defendant.

Section 15. KRS 155.410 is amended to read as follows:

(1) The purposes of KRS 155.410 to 155.490 are to encourage capital investment in the Commonwealth of Kentucky, to encourage the establishment or expansion of small business and industry, to provide additional jobs and to encourage the development of new products and technologies in the state through seed and venture capital investments.

(2) The investment program established by KRS 155.410 to 155.490, shall give investment preference to Kentucky businesses showing a potential for rapid growth. Insofar as possible, investments made in a Kentucky business through KRS 155.410 to 155.490 shall be used by that business to leverage additional capital investments from other sources.

(3) ***Up to*** twenty percent (20%) of the funds available for investment under the provisions of KRS 155.410 to 155.490 ***may*** [~~shall~~] be ***used*** for investment in agribusiness or agriculturally related ventures. ***Further, dividends paid by the fund and capital gains distributed by the fund to an owner of a qualified investment shall be exempt from the taxes imposed by KRS Chapter 141 to the extent that the dividends or capital gains distributions are attributable to the fund's investments in agribusinesses as defined in KRS 155.420(7).***

(4) Seventy-five percent (75%) of the funds available for investment under the provisions of KRS 155.410 to 155.490 shall be for investment in small business as defined in KRS 155.420. The remaining twenty-five percent (25%) may be invested as the fund determines to provide capital to Kentucky businesses.

Section 16. KRS 155.420 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Commonwealth Venture Fund" means the venture capital entity established and managed pursuant to KRS 155.430.

(2) "Qualified investment" means an investment in the Commonwealth venture fund purchased in cash by a Kentucky taxpayer.

(3) "State tax liability" means a taxpayer's total state tax liability that is incurred under:

(a) KRS 136.070 - Corporation license tax;

(b) KRS 136.270 - Bank and trust company share tax;

(c) KRS 136.300 - Savings and loan tax; [~~and~~]

(d) ***KRS 136.320 - Domestic life insurance property tax; and***

(e) KRS Chapter 141 - Income tax.

(4) "Taxpayer" means any person, corporation, partnership or other entity that has any state tax liability.

(5) "Small business" means a Kentucky based company, ***including start-up and pre-start-up businesses,*** employing less than ***five*** [~~one~~] hundred ***(500)*** [~~(100)~~] people, with capitalization limits as follows:

(a) Less than ***one million*** [~~five hundred thousand~~] dollars ***($1,000,000)*** [~~($500,000)~~] for a non-manufacturing firm; or

(b) Less than ***three*** [~~one~~] million [~~five hundred thousand~~] dollars ***($3,000,000)*** [~~($1,500,000)~~] for a manufacturing firm.

Employment and capitalization limits of this subsection shall apply only at the point of any initial investment by the fund.

(6) "Capitalization" means owners' equity, common stock, preferred stock, and retained earnings.

(7) "Agribusiness" means any person, partnership, corporation, or any entity engaged in an agricultural endeavor***, including forestry, horticulture, and aquaculture,*** or an agriculturally related business.

(8) "Fiscal rate of return" means a measurable future revenue stream to the Kentucky Revenue Cabinet in exchange for the foregone current revenues because of the targeted venture capital tax credit of seven million dollars ($7,000,000) as specified in KRS 155.450.

Section 17. KRS 155.430 is amended to read as follows:

(1) (a) To carry out the purposes of KRS 155.410 to 155.490, a Kentucky based venture capital entity shall be established, as provided in subsections (3), (4), ***and*** (5) [~~and (6)~~] of this section, with the name Commonwealth venture fund to provide financing to Kentucky based businesses including but not limited to corporations and partnerships.

(b) Until such time as the fund is invested in such small businesses, it may be invested in such obligations and securities as the panel or the managing firm deems prudent.

(2) ***Initial*** [~~The~~] financing provided by the Commonwealth venture fund may include any combination of equity investments, loans, guarantees and commitments for financing and the amount of financing shall be limited for any one business entity to ***one million*** [~~five hundred thousand~~] dollars ***($1,000,000)*** [~~($500,000)~~]. ***Total investments, including initial and follow-on investments, in any one (1) Kentucky company shall not exceed ten percent (10%) of the fund.***

(3) The Commonwealth venture fund shall be established and a managing firm selected for the fund by a panel composed of:

(a) [~~The secretaries of the Kentucky Finance and Administration, Commerce and Revenue Cabinets. The secretary of finance and administration shall act as chairman of the panel and the secretary of commerce shall act as vice-chairman;~~

~~(b)~~] ***From*** five (5) ***to eleven (11)*** members ***from the private sector*** appointed by the Governor for a term not exceeding four (4) years. ***Further, any investor in the fund who invests five hundred thousand dollars ($500,000) or more shall be a sitting and voting member on this initial panel.*** The terms of these members shall expire and cease upon the election referred to in paragraph ***(b)***[~~(c)~~];

(b)[~~(c)~~] When the fund has raised a minimum of five million dollars ($5,000,000) in commitments for investment and an initial closing has been held, the investors in the fund shall elect five (5) representatives to the panel for a two (2) year term. At the conclusion of that initial two (2) year term, the investors in the fund at that time shall elect five (5) representatives to the panel to serve terms as shall be established by the panel. The investors shall be entitled to one (1) vote for each one thousand dollars ($1,000) in capital contributed; and

(c)[~~(d)~~] After the panel has established the fund and selected the managing firm, a representative of the managing firm of the Commonwealth venture fund shall also sit on the panel as a voting member.

(4) [~~The panel shall be staffed by the Finance and Administration and Commerce Cabinets as directed by the secretary of finance and administration acting in his capacity as chairman of the panel.~~]

[~~(5)~~] The panel shall establish criteria and guidelines for the management of the Commonwealth venture fund based on the provisions of KRS 155.410 to 155.490 and on prudent financial and investment practices and standards.

(5)[~~(6)~~] Any private [~~financial~~] entity may apply to the panel to be selected as the managing firm of the Commonwealth venture fund based on the criteria and guidelines established by the panel. After review of the proposals submitted to the panel, the panel shall select an applicant to be the managing firm of the Commonwealth venture fund.

(6)[~~(7)~~] The panel shall have the authority to select or dismiss the managing firm of the Commonwealth venture fund, negotiate management fees. ***The management firm shall***[~~, and~~] determine ***and report*** the policy for ***investments and for*** dividends, profit sharing or reinvestment of proceeds realized from investments made by the Commonwealth venture fund ***and***[~~. The panel~~] shall not authorize any dividends to be paid from income received from investments made pursuant to subsection (1)(b) of this section until ***that investment*** [~~such~~] income has been reinvested in a small business for at least five (5) years.

(7)[~~(8)~~] ***Guidelines and policies*** [~~Administrative regulations~~] necessary to carry out the purposes of KRS 155.410 to 155.490 shall be [~~promulgated and~~] issued by the panel. The guidelines and ***policies*** [~~regulations~~] shall assure that the Commonwealth venture fund shall make investments in Kentucky small businesses in a timely manner. Reporting requirements of the managing firm shall also be ***issued*** [~~promulgated~~].

Section 18. KRS 155.440 is amended to read as follows:

(1) Subject to KRS 155.450, a taxpayer ***may receive*** [~~is entitled to~~] a credit against any state tax liability which may be imposed on the taxpayer for any tax year beginning after December 31, ***1993*** [~~1989~~], if the taxpayer purchases a qualified investment in the Commonwealth venture fund. However, a taxpayer may only receive a credit for qualified investments purchased during calendar years ***1992, 1993, 1994, 1995, 1996, 1997, 1998, and 1999*** [~~1988, 1989, 1990 and 1991~~]. The total amount of credit that a taxpayer may receive under KRS 155.410 to 155.490 shall be determined by multiplying the consideration paid for all qualified investments purchased by the taxpayer by four-tenths (0.4) ***or forty percent (40%).***

(2) The amount of credit that a taxpayer may receive under KRS 155.410 to 155.490 for a particular taxable year shall not exceed ***twenty-five percent (25%) of the total amount of credit as determined under subsection (1) of this section, and it shall not exceed*** the taxpayer's state tax liability, reduced by other credits to which the taxpayer is entitled, for that taxable year.

(3) If the amount determined in subsection (1) of this section exceeds the taxpayer's state tax liability for that tax year, then the taxpayer may carry the excess credit over to the immediately succeeding tax years. However, the credit carryover may not be used for any tax year that begins on or after January 1, ***2004*** [~~1994~~]. The amount of the carryover from a tax year shall be reduced to the extent that the carryover is used by the taxpayer to obtain a credit under KRS 155.410 to 155.490 for any subsequent tax year.

Section 19. KRS 155.460 is amended to read as follows:

(1) A credit to which a taxpayer is entitled under KRS 155.410 to 155.490 shall be applied against the following state taxes owed by the taxpayer:

(a) The taxpayer's income tax liability for the tax year;

(b) The taxpayer's bank and trust company share tax liability or savings and loan tax liability for the tax year;

(c) The taxpayer's corporation license tax for the tax year***;***

(d) The taxpayer's domestic life insurance property tax for the tax year.

(2) Whenever the tax paid by the taxpayer under any of the above listed tax provisions is a credit against the liability or a deduction in determining the tax base under another Kentucky tax provision, the credit or deduction shall be computed without regard to the credit to which a taxpayer is entitled under KRS 155.410 to 155.490.

Section 20. KRS 155.480 is amended to read as follows:

(1) If a qualified investment which is the basis for a credit under this chapter is redeemed by the fund or ***if the fund allows the qualified investment to be*** withdrawn by the taxpayer within five (5) years of the date it is purchased, the credit provided by this chapter for the qualified investment shall be disallowed, and any credit previously claimed and allowed with respect to the qualified investment so redeemed or withdrawn shall be paid to the Revenue Cabinet with the appropriate return of the taxpayer covering the period in which the redemption or withdrawal occurred. When payments are made to the cabinet under this section, the amount collected shall be handled in exactly the same manner as if no credit had been allowed.

(2) The administration of subsection (1) of this section shall not be limited by the provisions of KRS 141.210.

Section 21. KRS 155.490 is amended to read as follows:

(1) The reporting requirements from the managing firm to the panel, authorized in KRS 155.430***(6)***[~~(7)~~], shall include but not be limited to an annual report showing:

(a) The name, address and amount of investment of each Kentucky taxpayer making a qualified investment in the Commonwealth venture fund; and

(b) The name, address, amount and terms of financing, and job creation anticipated and achieved of each business in which the fund invests.

(2) Pursuant to the exclusion provided for in KRS 61.878, the contents of the annual report from the managing firm to the panel described in subsection (1) of this section shall not be considered a public record.

(3) By February 1 of each year, the panel shall make an annual report on the Commonwealth venture fund to the Governor and the Legislative Research Commission. The annual report shall include but not be limited to the following data:

(a) The total number of investors and the amount invested in the fund, broken out and categorized by type of taxpayer, by size of investment and by geographical distribution including by area development districts; and

(b) The total number of investments and amount invested by the fund, broken out and categorized by type of businesses, size of investment, job creation anticipated and achieved, and by geographical distribution including by area development districts.

SECTION 22. A NEW SECTION OF KRS CHAPTER 155 IS CREATED TO READ AS FOLLOWS:

(1) An investment may be made in the Commonwealth venture fund by an entity which is not subject to any of the taxes listed in KRS 55.420 and 155.460.

(2) When an investment of the kind specified in subsection (1) of this section is made, the investing entity shall be deemed to have acquired a transferable tax credit and the amount of the tax credit shall be calculated in the same way specified for a qualified investment by KRS 155.440.

(3) A transferable tax credit may be transferred only as a whole and in full, and transferred only one (1) time. A transferred tax credit shall be documented and redeemed in the manner prescribed by the Revenue Cabinet and in a manner consistent with KRS 155.440 to 155.470.

(4) No entity making an investment in the Commonwealth venture fund as authorized by this section shall be entitled to participate in the voting process specified in KRS 155.430(3)(c), nor shall the purchase of a transferable tax credit carry any voting privileges, as specified in KRS 155.430(3)(c), to the purchaser.

Section 23. KRS 155.490 is amended to read as follows:

(1) The reporting requirements from the managing firm to the panel, authorized in KRS 155.430(7), shall include but not be limited to an annual report showing:

(a) The name, address and amount of investment of each Kentucky taxpayer making a qualified investment in the Commonwealth venture fund; and

(b) The name, address, amount and terms of financing, and job creation anticipated and achieved of each business in which the fund invests.

(2) Pursuant to the exclusion provided for in KRS 61.878, the contents of the annual report from the managing firm to the panel described in subsection (1) of this section shall not be considered a public record.

(3) By February 1 of each year, the panel shall make an annual report on the Commonwealth venture fund to the Governor and the Legislative Research Commission. The annual report shall include but not be limited to the following data:

(a) The total number of investors and the amount invested in the fund, broken out and categorized by type of taxpayer, by size of investment and by geographical distribution including by area development districts; [~~and~~]

(b) The total number of investments and amount invested by the fund, broken out and categorized by type of businesses, size of investment, job creation anticipated and achieved, and by geographical distribution including by area development districts***;***

(c) The total cash investments generated by the tax credit;

(d) The total tax credits allocated;

(e) The total investment in Kentucky ventures by the Commonwealth venture fund;

(f) The total fiscal rate of return, as defined in subsection (8) of Section 16 of this Act, generated by the tax credit as measured by a model which shall be created by the fund working in concert with the Revenue Cabinet;

(g) An estimate of jobs created or preserved by economic development activities generated by KRS 155.400 to 155.490;

(h) An estimate of the multiplier effect on the economy of the Commonwealth resulting from economic development activities generated by KRS 155.400 to 155.490;

(i) An summary evaluation of the impact of KRS 155.400 to 155.490; and

(j) Any specific recommendations for improving KRS 155.400 to 155.490.

The Committee Title Amendment to **SB 316** is as follows:

Amend printed copy of **SB 316/GA** as follows:

By amending the title to read as follows:

"AN ACT relating to economic development."

The Committee on Health and Welfare reported **HB 473**, with Committee Substitute attached thereto, **HB 709**, **HB 715** and **HB 881**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 473, AN ACT relating to dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 313.260 TO 313.360 IS CREATED TO READ AS FOLLOWS:

(1) The board may maintain an action to enjoin the practice of or attempt to practice dental hygiene without a license in violation of KRS 313.310.

(2) In case of a violation of any injunction granted under this section, the court may summarily try and punish the offender. The proceedings shall be commenced by filing with the clerk of the court an affidavit, setting out the alleged facts constituting the violation, upon which the court shall cause an order of arrest to issue. The trial may be had upon affidavit, but either party may at any stage of the proceedings demand the production and oral examination of the witnesses.

Section 2. KRS 313.080 is amended to read as follows:

(1) By December 31 of each year, every dentist licensed to practice in this state shall return to the [~~secretary-treasurer of the~~] board evidence satisfactory to the board that such dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be adopted by the board. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for such hardship or other extenuating circumstances as the board deems appropriate. The continuing dental education shall include completion of the course described in KRS 214.610(1).

(2) By ***December 31*** [~~March 1~~] of each year, every dentist licensed to practice in this state shall return to the [~~secretary-treasurer of the~~] board his renewal notice properly signed and a ***license*** fee ***in the amount prescribed by the board*** [~~not to exceed fifty dollars ($50)~~]. The dentist shall thereupon receive a license renewal

certificate, provided that he has also complied with the requirements of subsection (1) of this section. The board shall fix the license fee at such amount as is necessary to maintain a revolving fund at an approximate level of ***two hundred*** [~~fifty~~] thousand dollars ***($200,000)*** [~~($50,000)~~]. The license fee for each year shall be set [~~annually~~] by the board. Notice of ***a*** [~~such~~] change in the amount of license renewal fee shall be given to each dentist ***licensed*** [~~registered~~] in the state by the ***board*** [~~secretary-treasurer~~] not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by ***January*** [~~March~~] 1 of each year, but any license thus suspended may be restored by the board upon the payment to the ***board*** [~~secretary-treasurer~~] of a reinstatement fee of ***fifty dollars ($50)*** [~~$50.00~~] within one (1) year after the suspension.

Section 3. KRS 313.130 is amended to read as follows:

The board may ***reprimand or place on probation, or may*** revoke, suspend, [~~or~~] refuse to renew, ***or refuse to issue a license to*** [~~the license of~~] any dentist for any of the following causes:

(1) Conviction of ***any*** [~~a~~] felony or ***conviction of only those misdemeanors*** [~~misdemeanor~~] involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(2) Renting or lending to any person his license or diploma to be used as a license or diploma, or illegally or fraudulently obtaining a license from the board.

(3) Unprofessional conduct, gross ignorance, or inefficiency in his profession or failure to accumulate a sufficient number of points for continuing dental education as prescribed by the board under the provisions of KRS 313.080.

(4) ***Violating any of the provisions of this chapter or any lawful order, rule, or regulation made or issued under the provisions of this chapter*** [~~Failure or refusal to comply with the orders of the board issued pursuant to KRS 313.220~~].

(5) Addiction to a drug habit.

(6) Chronic or persistent alcoholism.

(7) ***Such*** physical or mental disability, or other condition, that continued practice would be dangerous to patients or to the public.

Section 4. KRS 313.180 is amended to read as follows:

(1) A licensee ***against whom the board has taken disciplinary action*** [~~whose license has been revoked by the board~~] may appeal [~~from~~] the [~~revocation~~] order within thirty (30) days of the ***date of the final order of the board*** [~~cancellation of his license~~]. The appeal shall be to the Circuit Court of the county in which the board met [~~to revoke the license. Any person who takes such an appeal shall serve upon the secretary-treasurer, a written notice of the appeal, and shall file in the office of the secretary-treasurer, an appeal bond with good and sufficient surety, to be approved by the secretary-treasurer, to the state, conditioned for the speedy prosecution of the appeal and the payment of any costs charged against him upon the appeal~~].

(2) The ***board*** [~~secretary-treasurer~~], within ten (10) days after the service of notice of appeal [~~and the filing and approval of the bond~~], shall transmit to the clerk of the Circuit Court to which the appeal is taken ***all evidence, and the findings of fact and conclusions of law, on which the decision of the board is based*** [~~a certified copy, under the seal of the board, of the accusations on which the revocation was based and the ground for appeal, together with the notice and bond of appeal. The clerk of the Circuit Court shall docket the case, and it shall be tried in all respects like an ordinary civil action. Either party may appeal from the judgment of the Circuit Court to the Court of Appeals as in a civil action. The judgment shall be stayed from the date of the approval of the bond until final determination of the appeal~~].

(3) The review by the Circuit Court shall not be de novo, but shall be limited to the findings of fact of the board and the evidence presented to the board. The court which reviews the actions of the board shall modify, remand, or otherwise disturb those actions only in the following circumstances:

(a) If the action of the board constitutes a clear abuse of its discretion;

(b) If the action of the board is clearly beyond the authority delegated to it by the General Assembly;

(c) If the action of the board violates the statutory procedure for disciplinary hearings; or

(d) If the disciplinary action imposed was clearly not commensurate with the violation.

(4) Either party may appeal from the judgment of the Circuit Court to the Court of Appeals in the manner prescribed by the Kentucky Rules of Civil Procedure.

Section 5. KRS 313.305 is amended to read as follows:

(1) By December 31 of each year, every dental hygienist licensed to practice in this state shall return to the [~~secretary-treasurer of the~~] board[~~,~~] evidence satisfactory to the board that ***the*** [~~such~~] dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. Continuing dental hygienist education shall include completion of the course described in KRS 214.610(1). In approving continuing education activities, the board shall develop criteria to determine the actual effect upon the competency of the participant. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for such hardship or other extenuating circumstances as the board deems appropriate. [~~The board shall, upon the granting of such an exemption, state in the minutes of that meeting the name of the person requesting an exemption and the reasons given.~~]

(2) By ***December 31*** [~~March 1~~] of each year, every dental hygienist licensed to practice in this state shall return to the [~~secretary-treasurer of the~~] board ***the hygienist's*** [~~his~~] renewal notice properly signed and a fee of ten dollars ($10) or an amount as hereinafter prescribed by the board. The dental hygienist shall ***then*** [~~thereupon~~] receive a license renewal certificate***,*** provided that ***compliance*** [~~he has also complied~~] with the requirements of subsection (1) of this section ***is met***. The board may fix the annual renewal license fee at ***an*** [~~such~~] amount[~~,~~] not less than ten dollars ($10) nor more than ***sixty*** [~~twenty~~] dollars ***($60)*** [~~($20)~~], as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each year shall be set [~~annually~~] by the board. Notice of [~~such~~] change in the amount of license renewal fee shall be given to each dental hygienist ***licensed*** [~~registered~~] in the state by the ***board*** [~~secretary-treasurer~~] not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by ***January*** [~~March~~] 1 of each year, but any license thus suspended may be restored by the board upon the payment to the ***board*** [~~secretary-treasurer~~] of a reinstatement fee of ***seventy-five*** [~~twenty-five~~] dollars ***($75)*** [~~($25)~~] within one (1) year after the suspension.

Section 6. KRS 313.520 is amended to read as follows:

(1) ***By December 31*** [~~On or before March 1~~] of each [~~calendar~~] year the owner or [~~owners and~~] manager of each dental laboratory in this state shall [~~annually~~] register with the board each dental laboratory in this state with which ***the owner or manager*** [~~he~~] has any connection or interest, and in connection with such application, shall pay a fee ***in the amount*** [~~of not less than $10.00 and not more than $100.00 as~~] recommended by the commission and determined by the board. ***The*** [~~Such~~] application shall set forth ***any*** [~~such~~] facts as the board may require after the board has received the recommendations of the commission.

(2) ***By December 31*** [~~On or before March 1~~] of each [~~calendar~~] year each dental laboratory technician shall [~~annually~~] register with the board and shall pay in connection with ***the*** [~~such~~] application a fee ***in the amount*** [~~of not less than $5.00 and not more than $20.00 as~~] recommended by the commission and determined by the board. ***The*** [~~Such~~] application shall set forth ***the*** [~~such~~] facts as the board may require after the board has received the recommendations of the commission.

(3) The receipt and expenditure of all fees received by the board [~~from (1) and (2) above~~] shall be accounted for by the board annually to the commission [~~on or before June 30 of each year, beginning on July 1, 1975, and no funds shall be expended by the board from fees paid by registrants under (1) and (2) above for any purpose other than the government and regulation of such registrants~~].

(4) Employees of a dental laboratory, other than dental laboratory technicians, shall not be required to register under this chapter. A list of all such employees, other than dental laboratory technicians, shall be furnished annually to the board and to the commission as required by regulations adopted by the board.

(5) The board shall issue a certificate of authority to perform as a dental laboratory or as a dental laboratory technician upon the board's determination that the registrant has complied with the provisions of KRS 313.510 to 313.540 and of regulations adopted by the board.

Section 7. KRS 313.990 is amended to read as follows:

(1) Any person who practices or attempts to practice dentistry without a license in violation of KRS 313.020 shall be fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense; and for each subsequent offense shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license, practices or attempts to practice dentistry shall constitute a separate offense.

(2) ***Any person who violates any provision of KRS 313.250 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.***

(3) Any person who practices or attempts to practice dental hygiene without a license in violation of KRS 313.310 shall be fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense; and for each subsequent offense shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license practices or attempts to practice dental hygiene shall constitute a separate offense.

(4) Any person who violates any provision of KRS 313.290 to 313.310 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.

(5) Any person who violates any provision of KRS 313.410 to 313.445 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.

(6) Any person, firm, association, corporation, or combination thereof which violates any provision of KRS 313.520 to 313.530 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months [~~Any person who violates subsection (2) of KRS 313.040 shall be confined in the penitentiary not less than one (1) nor more than five (5) years.~~

~~(3) Any person who violates KRS 313.230 shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for the first offense; and for each subsequent offense shall be fined not less than one hundred dollars ($100) nor more than two hundred and fifty dollars ($250) or imprisoned in the county jail for not less than thirty (30) nor more than sixty (60) days, or both.~~

~~(4) Any person who violates KRS 313.240 shall be fined not more than one thousand dollars ($1,000). For a second or subsequent offense the license of any person who has violated such section may be suspended or revoked as provided in KRS 313.150.~~

~~(5) Any person who violates any provision of KRS 313.030 to 313.250 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both. Each day that a person illegally holds himself out as practicing dentistry shall constitute a separate offense.~~

~~(6) Any person who violates any provision of KRS 313.260 to 313.350 shall be fined not more than fifty dollars ($50.00) or imprisoned in the county jail for not more than thirty (30) days, or both.~~

~~(7) Any dentist who violates the provisions of KRS 313.410 shall, upon conviction thereof, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not less than thirty (30) days nor more than sixty (60) days or both.~~

~~(8) Any person who knowingly sells dental supplies and equipment to a person who has been convicted under subsection (1) of this section shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days or both, for the first offense; and for each subsequent offense shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days~~], or both.

Section 8. KRS 313.470 is amended to read as follows:

All fees imposed and collected under the provisions of KRS 313.400 to 313.470 and subsection ***(5)*** [~~(7)~~] of KRS 313.990, shall be disposed of in the same manner as is provided in KRS 313.350 for fees imposed and collected under the provisions of KRS 313.260 to 313.340.

The Committee Substitute to **HB 473** is as follows:

HB 473, AN ACT relating to dentistry.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 313.260 TO 313.360 IS CREATED TO READ AS FOLLOWS:

(1) The board may maintain an action to enjoin the practice of or attempt to practice dental hygiene without a license in violation of KRS 313.310.

(2) In case of a violation of any injunction granted under this section, the court may use its inherent powers for adequate relief.

Section 2. KRS 313.080 is amended to read as follows:

(1) By December 31 of each year, every dentist licensed to practice in this state shall return to the [~~secretary-treasurer of the~~] board evidence satisfactory to the board that such dentist has accumulated a sufficient number of points for continuing dental education in accordance with a schedule of points which shall be adopted by the board. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental education for such hardship or other extenuating circumstances as the board deems appropriate. The continuing dental education shall include completion of the course described in KRS 214.610(1).

(2) By ***December 31*** [~~March 1~~] of each year, every dentist licensed to practice in this state shall return to the [~~secretary-treasurer of the~~] board ***the*** [~~his~~] renewal notice properly signed and a ***license*** fee ***in the amount prescribed by the board*** [~~not to exceed fifty dollars ($50)~~]. The dentist shall thereupon receive a license renewal certificate, provided that he has also complied with the requirements of subsection (1) of this section. The board shall fix the license fee at such amount as is necessary to maintain a revolving fund at an approximate level of ***one hundred*** fifty thousand dollars ***($150,000)*** [~~($50,000)~~]. The license fee for each year shall be set [~~annually~~] by the board. Notice of ***a*** [~~such~~] change in the amount of license renewal fee shall be given to each dentist ***licensed*** [~~registered~~] in the state by the ***board*** [~~secretary-treasurer~~] not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by ***January*** [~~March~~] 1 of each year, but any license thus suspended may be restored by the board upon the payment to the ***board*** [~~secretary-treasurer~~] of a reinstatement fee of ***fifty dollars ($50)*** [~~$50.00~~] within one (1) year after the suspension.

Section 3. KRS 313.130 is amended to read as follows:

The board may ***reprimand or place on probation, or may*** revoke, suspend, [~~or~~] refuse to renew***, or refuse to issue a license to*** [~~the license of~~] any dentist for any of the following causes:

(1) Conviction of ***any*** [~~a~~] felony or ***conviction of only those misdemeanors*** [~~misdemeanor~~] involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.

(2) Renting or lending to any person his license or diploma to be used as a license or diploma, or illegally or fraudulently obtaining a license from the board.

(3) Unprofessional conduct, gross ignorance, or inefficiency in his profession or failure to accumulate a sufficient number of points for continuing dental education as prescribed by the board under the provisions of KRS 313.080.

(4) ***Violating any of the provisions of this chapter or any lawful order, rule, or regulation made or issued under the provisions of this chapter*** [~~Failure or refusal to comply with the orders of the board issued pursuant to KRS 313.220~~].

(5) Addiction to a drug habit.

(6) Chronic or persistent alcoholism.

(7) ***Such*** physical or mental disability, or other condition, that continued practice would be dangerous to patients or to the public.

Section 4. KRS 313.180 is amended to read as follows:

(1) A ***dentist or dental hygienist against whom the board has taken disciplinary action*** [~~licensee whose license has been revoked by the board~~] may appeal [~~from~~] the [~~revocation~~] order within thirty (30) days of the ***date of the final order of the board*** [~~cancellation of his license~~]. The appeal shall be to the Circuit Court of the county in which the board met [~~to revoke the license. Any person who takes such an appeal shall serve upon the secretary-treasurer, a written notice of the appeal, and shall file in the office of the secretary-treasurer, an appeal bond with good and sufficient surety, to be approved by the secretary-treasurer, to the state, conditioned for the speedy prosecution of the appeal and the payment of any costs charged against him upon the appeal~~].

(2) The ***board*** [~~secretary-treasurer~~], within ten (10) days after the service of notice of appeal [~~and the filing and approval of the bond~~], shall transmit to the clerk of the Circuit Court to which the appeal is taken ***all evidence, and the findings of fact and conclusions of law, on which the decision of the board is based*** [~~a certified copy, under the seal of the board, of the accusations on which the revocation was based and the ground for appeal, together with the notice and bond of appeal. The clerk of the Circuit Court shall docket the case, and it shall be tried in all respects like an ordinary civil action. Either party may appeal from the judgment of the Circuit Court to the Court of Appeals as in a civil action. The judgment shall be stayed from the date of the approval of the bond until final determination of the appeal~~].

(3) The review by the Circuit Court shall not be de novo, but shall be limited to the findings of fact of the board and the evidence presented to the board. The court which reviews the actions of the board shall modify, remand, or otherwise disturb those actions only in the following circumstances:

(a) If the action of the board constitutes a clear abuse of its discretion;

(b) If the action of the board is clearly beyond the authority delegated to it by the General Assembly;

(c) If the action of the board violates the statutory procedure for disciplinary hearings; or

(d) If the disciplinary action imposed was clearly not commensurate with the violation.

(4) Either party may appeal from the judgment of the Circuit Court to the Court of Appeals in the manner prescribed by the Kentucky Rules of Civil Procedure.

Section 5. KRS 313.305 is amended to read as follows:

(1) By December 31 of each year, every dental hygienist licensed to practice in this state shall return to the [~~secretary-treasurer of the~~] board[~~,~~] evidence satisfactory to the board that ***the*** [~~such~~] dental hygienist has accumulated a sufficient number of points for continuing dental hygienist education in accordance with a schedule of points which shall be adopted by the board. Continuing dental hygienist education shall include completion of the course described in KRS 214.610(1). In approving continuing education activities, the board

shall develop criteria to determine the actual effect upon the competency of the participant. Provided, however, that the board, in its discretion, may make exceptions to the point requirement for continuing dental hygienist education for such hardship or other extenuating circumstances as the board deems appropriate. [~~The board shall, upon the granting of such an exemption, state in the minutes of that meeting the name of the person requesting an exemption and the reasons given.~~]

(2) By ***December 31*** [~~March 1~~] of each year, every dental hygienist licensed to practice in this state shall return to the [~~secretary-treasurer of the~~] board ***the hygienist's*** [~~his~~] renewal notice properly signed and a fee of ten dollars ($10) or an amount as hereinafter prescribed by the board. The dental hygienist shall ***then*** [~~thereupon~~] receive a license renewal certificate, provided that ***compliance*** [~~he has also complied~~] with the requirements of subsection (1) of this section ***is met***. The [~~board may fix the~~] annual renewal license fee ***shall be established by the board in an*** [~~at such~~] amount[~~, not less than ten dollars ($10) nor more than twenty dollars ($20),~~] as is necessary to maintain the level of the revolving fund in accordance with the provisions of KRS 313.080. The license fee for each year shall be set [~~annually~~] by the board. Notice of [~~such~~] change in the amount of license renewal fee shall be given to each dental hygienist ***licensed*** [~~registered~~] in the state by the ***board*** [~~secretary-treasurer~~] not later than December 1. Any license granted by the board shall be suspended if the holder fails to secure the renewal certificate by ***January*** [~~March~~] 1 of each year, but any license thus suspended may be restored by the board upon the payment to the ***board*** [~~secretary-treasurer~~] of a reinstatement fee of twenty-five dollars ($25) within one (1) year after the suspension.

Section 6. KRS 313.520 is amended to read as follows:

(1) ***By December 31*** [~~On or before March 1~~] of each [~~calendar~~] year the owner or [~~owners and~~] manager of each dental laboratory in this state shall [~~annually~~] register with the board each dental laboratory in this state with which ***the owner or manager*** [~~he~~] has any connection or interest, and in connection with such application, shall pay a fee ***in the amount*** [~~of not less than $10.00 and not more than $100.00 as~~] recommended by the commission and determined by the board. ***The*** [~~Such~~] application shall set forth ***any*** [~~such~~] facts as the board may require after the board has received the recommendations of the commission.

(2) ***By December 31*** [~~On or before March 1~~] of each [~~calendar~~] year each dental laboratory technician shall [~~annually~~] register with the board and shall pay in connection with ***the*** [~~such~~] application a fee ***in the amount*** [~~of not less than $5.00 and not more than $20.00 as~~] recommended by the commission and determined by the board. ***The*** [~~Such~~] application shall set forth ***the*** [~~such~~] facts as the board may require after the board has received the recommendations of the commission.

(3) The receipt and expenditure of all fees received by the board [~~from (1) and (2) above~~] shall be accounted for by the board annually to the commission [~~on or before June 30 of each year, beginning on July 1, 1975, and no funds shall be expended by the board from fees paid by registrants under (1) and (2) above for any purpose other than the government and regulation of such registrants~~].

(4) Employees of a dental laboratory, other than dental laboratory technicians, shall not be required to register under this chapter. A list of all such employees, other than dental laboratory technicians, shall be furnished annually to the board and to the commission as required by regulations adopted by the board.

(5) The board shall issue a certificate of authority to perform as a dental laboratory or as a dental laboratory technician upon the board's determination that the registrant has complied with the provisions of KRS 313.510 to 313.540 and of regulations adopted by the board.

Section 7. KRS 313.990 is amended to read as follows:

(1) Any person who practices or attempts to practice dentistry without a license in violation of KRS 313.020 shall be fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense; and for each subsequent offense shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license, practices or attempts to practice dentistry shall constitute a separate offense.

(2) ***Any person who violates any provision of KRS 313.022 to 313.250 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.***

(3) Any person who practices or attempts to practice dental hygiene without a license in violation of KRS 313.310 shall be fined one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both, for the first offense; and for each subsequent offense shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days, or both. Each day that a person without a license practices or attempts to practice dental hygiene shall constitute a separate offense.

(4) Any person who violates any provision of KRS 313.290 to 313.310 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.

(5) Any person who violates any provision of KRS 313.410 to 313.445 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both.

(6) Any person, firm, association, corporation, or combination thereof which violates any provision of KRS 313.520 to 313.530 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months [~~Any person who violates subsection (2) of KRS 313.040 shall be confined in the penitentiary not less than one (1) nor more than five (5) years.~~

~~(3) Any person who violates KRS 313.230 shall be fined not less than twenty-five dollars ($25) nor more than fifty dollars ($50) for the first offense; and for each subsequent offense shall be fined not less than one hundred dollars ($100) nor more than two hundred and fifty dollars ($250) or imprisoned in the county jail for not less than thirty (30) nor more than sixty (60) days, or both.~~

~~(4) Any person who violates KRS 313.240 shall be fined not more than one thousand dollars ($1,000). For a second or subsequent offense the license of any person who has violated such section may be suspended or revoked as provided in KRS 313.150.~~

~~(5) Any person who violates any provision of KRS 313.030 to 313.250 for which no specific penalty has been provided shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for the first offense; and for each subsequent offense shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both. Each day that a person illegally holds himself out as practicing dentistry shall constitute a separate offense.~~

~~(6) Any person who violates any provision of KRS 313.260 to 313.350 shall be fined not more than fifty dollars ($50.00) or imprisoned in the county jail for not more than thirty (30) days, or both.~~

~~(7) Any dentist who violates the provisions of KRS 313.410 shall, upon conviction thereof, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned for not less than thirty (30) days nor more than sixty (60) days or both.~~

~~(8) Any person who knowingly sells dental supplies and equipment to a person who has been convicted under subsection (1) of this section shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days or both, for the first offense; and for each subsequent offense shall be fined two thousand dollars ($2,000) or imprisoned in the county jail for not more than sixty (60) days~~], or both.

Section 8. KRS 313.470 is amended to read as follows:

All fees imposed and collected under the provisions of KRS 313.400 to 313.470 and subsection ***(5)*** [~~(7)~~] of KRS 313.990, shall be disposed of in the same manner as is provided in KRS 313.350 for fees imposed and collected under the provisions of KRS 313.260 to 313.340.

HB 709, AN ACT relating to specialized treatment program for sexual offenders who are mentally retarded.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 197.410 is amended to read as follows:

(1) A person is considered to be a "sexual offender" as used in this chapter when he:

(a) Has been adjudicated guilty of any felony described in KRS Chapter 510; or

(b) Has been adjudicated guilty of any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510; or

(c) Has been adjudicated guilty of any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510; or

(d) Has been adjudicated guilty of a felony offense under KRS 530.020; or

(e) Has been adjudicated guilty of a felony offense under KRS 530.064; or

(f) Has been adjudicated guilty of a felony offense under KRS 531.310.

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or cabinet officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, ***including mental retardation,*** but not active psychosis [~~or mental retardation~~]; and

(b) Is likely to benefit from the program.

(3) ***When the sentencing court or cabinet officials or both, determine that the offender is mentally retarded, an individualized treatment program shall be designed to appropriately accommodate that offender's mental functioning level.***

(4) "Cabinet" is the Corrections Cabinet.

HB 715, AN ACT relating to prohibiting the use of corporal physical discipline or punishment on children in out-of-home placement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 199.640 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, or maintain any child-caring facility or child-placing agency without having a license to do so issued by the cabinet.

(2) Licenses issued to the agency or facility shall be valid for a period of one (1) year from date of issue unless revoked by the cabinet provided that each licensed facility or agency shall be visited and inspected by a person authorized by the cabinet at least once each year and a complete report of such visit or inspection be filed with the cabinet. Each license issued shall specify the type of care or service the licensee is authorized to perform. Each initial application for a license shall be accompanied by a fee of one hundred dollars ($100) and shall, except for provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of fifty dollars ($50). The fees collected by the secretary shall be deposited in the State Treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.

(3) The secretary may ***promulgate*** [~~adopt~~] administrative regulations establishing standards of care and service for child-caring facilities and child-placing agencies relating to the sanitary and hygienic conditions, the accommodations available for each child, the diet provided, the safety of the child from fire and other accidents and hazards, and [~~such~~] other factors as may be necessary to promote the welfare of children cared for or placed by such agencies and facilities[~~; provided, however, any administrative regulations adopted pursuant to KRS Chapter 13A to govern services provided by church-related privately operated child-caring~~

~~agencies or facilities shall not prohibit the use of reasonable corporal physical discipline which complies with the provisions of KRS 503.110(1), including the use of spanking or paddling, as a means of punishment, discipline or behavior modification~~].

(4) Each agency or facility licensed under this section shall keep a record containing:

(a) The names, ages, present, and former residences of all children received;

(b) The names, residence, and occupation so far as is known, of the parents;

(c) The dates of the reception, placing out for adoption or foster care, together with the names, occupation, and residence of the persons with whom the child is placed;

(d) The date and cause of termination of its custody of each child; and

(e) A brief history of each child until he shall have reached the age of eighteen (18) years or shall have been adopted or discharged according to the law.

(5) Parents are received or boarded in a family rehabilitation home pursuant to a written agreement between home and parent.

(6) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection except to authorized employees of the cabinet or of such licensed agency or facility in performance of their duties.

HB 881, AN ACT relating to child sexual abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed of law enforcement officers, social workers, Commonwealth's and county attorneys, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed by the Justice Cabinet and issued as administrative regulations.

(2) Local protocols shall be developed in each county by the agencies and persons specified in subsection (1) of this section specifying how the state protocols will be followed within the county. These protocols shall be in accordance with, and approved by, the Justice Cabinet.

(3) Each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.

(4) Commonwealth's attorneys and county attorneys shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.

(5) Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.

(6) Commonwealth's attorneys and county attorneys shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings, and other proceedings when possible.

(7) Commonwealth's attorneys and county attorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall develop an inservice training program for Commonwealth's and county attorneys and their assistants in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each Commonwealth's and county attorney and each assistant Commonwealth's and county attorney shall annually attend the inservice training required by the Attorney General by administrative regulation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Kentucky Law Enforcement Council shall develop an inservice training program for peace officers in child development, the dynamics of physical and sexual abuse, the impact of violence on child development the treatment of offenders, and related issues. Each peace officer desiring to participate in the Kentucky Law Enforcement Foundation Fund program, if eligible to participate, shall successfully complete the inservice training on an annual basis as specified by administrative regulation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall develop an inservice training program for social workers employed by the Cabinet or by local public agencies in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each social worker employed by the cabinet or by a public agency who works with children or with families shall successfully complete the inservice training program on an annual basis in order to remain assigned to child or family social work programs. The Cabinet shall specify the manner of training and related matters by administrative regulation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The State Board of Medical Licensure shall develop inservice training programs for physicians, physicians assistants, paramedics, athletic trainers, and other persons licensed or certified by the board in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each person licensed or certified by the board shall annually successfully complete the training prescribed by administrative regulation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Nursing shall develop inservice training programs for nurses licensed by the board in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each nurse licensed by the board shall annually successfully complete the training prescribed by the board by administrative regulation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO READ AS FOLLOWS:

The Supreme Court shall develop inservice training programs for Circuit Judges, District Judges, and trial commissioners in child development, the dynamics of physical and sexual abused, the impact of violence on child development, the treatment of offenders, and related issues. Each Circuit Judge, District Judge, and trial commissioner shall annually successfully complete the training prescribed by the Supreme Court by rule.

SECTION 8. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) Courts shall implement measures to accommodate the special needs of children which are not unduly burdensome to the rights of the defendant, including, but not limited to:

(a) Trained guardians ad litem or special advocates shall be appointed for all child victims and shall serve in Circuit and District Courts to offer consistency and support to the child and to represent the child's interests where needed.

(b) During trials involving child victims or child witnesses, the environment of the courtroom shall be modified to accommodate children through the use of small chairs, frequent breaks, and the use of age appropriate language.

(c) Children expected to testify shall be prepared for the courtroom experience by the Commonwealth's or county attorney handling the case with the assistance of the guardian ad litem or special advocate.

(d) In appropriate cases, procedures shall be used to shield children from visual contact with alleged perpetrator.

(2) The Supreme Court shall issue rules for the conduct of criminal and civil trials involving child abuse in which a child victim or child witness may testify at the trial.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall provide, upon the request of any Commonwealth's or county attorney, investigators and prosecutors specially trained in child sexual abuse, particularly for, but not limited to, cases with multiple offenders, with multiple victims, cases of institutional abuse and cases of ritualistic abuse.

SECTION 10. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Each hospital licensed by the board shall provide medical and diagnostic services for child sexual abuse victims.

SECTION 11. A NEW SECTION OF KRS CHAPTER 432 IS CREATED TO READ AS FOLLOWS:

(1) Any person who, since January 1, 1993, has pled guilty to or has been convicted in this state, in any other state, or by the Courts of the United States or by a United States military court of an offense under KRS Chapter 510 in which a person under eighteen (18) years of age was the victim, or of a similar offense in another jurisdiction, who has pled guilty but mentally ill to one (1) of those offenses, or who has been convicted or pled guilty of an attempt to commit one (1) of those offenses, or any person who since that date or at any time hereafter is discharged or paroled from a penal institution where he was confined because of the commission or attempt to commit one (1) of the above-mentioned offenses, shall, within thirty (30) days after the effective date of this section or within fourteen (14) days of coming into any county or city, or city and county in which he temporarily resides or is domiciled for that length of time register with the chief of police of the city in which he or she is domiciled or the sheriff of the county if he or she is domiciled in an unincorporated area.

(2) Any person who, after January 1, 1993, is discharged or paroled from a jail, prison, school, road camp, or other institution where he was confined because of the commission or attempt to commit one (1) of the offenses listed in subsection (1) of this section or is released from a state hospital to which he was committed as guilty but mentally ill shall, prior to discharge, parole, or release, be informed of his duty to register under this section by the official in charge of the place of confinement or hospital. The official shall require the person to read and sign any form that may be required by the Justice Cabinet, stating that the duty of the person to register under this section has been explained to the person. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his discharge, parole, or release and shall report the address to the Justice Cabinet. The official in charge of the place of confinement or hospital shall give one (1) copy of the form to the person, and shall send two (2) or, if the conviction which makes the person subject to this section is a felony conviction, shall, not later than forty-five (45) days prior to the scheduled release of the person, send four (4) copies to the Justice Cabinet. The cabinet shall forward one (1) copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon discharge, parole, or release; and, if the conviction which makes the person subject to this section is a felony conviction, one (1) copy to the prosecuting agency which prosecuted the person; and one (1) copy to the court where the person was prosecuted. All the forms shall, if the conviction which makes the person subject to this section is a felony conviction, be transmitted in time to be received by the local law enforcement agency, prosecuting agency, and court thirty (30) days prior to the discharge, parole, or release of the person.

(3) Any person who after January 1, 1993, is convicted in this state of the commission or attempt to commit any of the offenses listed in subsection (1) of this section and who is released on probation or discharged upon payment of a fine shall, prior to release or discharge, be informed of the duty to register under this section by the court in which the person has been convicted. The court shall require the person to read and sign any form that may be required by the Justice Cabinet, stating that the duty of the person to register under this section has been explained to him. The court shall obtain the address where the person

expects to reside upon release or discharge and shall report within three (3) days the address to the Justice Cabinet. The court shall give one (1) copy of the form to the person, and shall send two (2) copies to the Justice Cabinet, which, in turn, shall forward one (1) copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his or her discharge, parole, or release.

(4) The registration shall consist of:

(a) A statement in writing signed by the person, giving information required by the Justice Cabinet; and

(b) The fingerprints and photograph of the person.

Within three (3) days after receipt, the registering law enforcement agency shall forward the statement, fingerprints, and photograph to the Justice Cabinet.

(5) If any person required to register changes his residence address, the person shall inform, in writing within ten (10) days, the law enforcement agency with whom he or she last registered of the new address. The law enforcement agency shall, within three (3) days after receipt of this information, forward it to the Justice Cabinet. The Justice Cabinet shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

(6) Any person required to register under this section who violates any of the provisions thereof is guilty of a Class A misdemeanor. Any person who has been convicted of assault with intent to commit rape or sodomy, and who is required to register under this section who shall willfully violate any of the provisions thereof is guilty of a misdemeanor and shall be sentenced to serve a term of not less than ninety (90) days nor more than one (1) year in the county jail. The court shall not absolve a person who willfully violates this section from the obligation of spending at least ninety (90) days of confinement in the county jail and of completing probation of at least one (1) year.

(7) When any person is released on parole or probation and is required to register under this section but fails to do so within the time prescribed, the Parole Board, or the court, as the case may be, shall order the parole or probation of the person revoked.

(8) The statements, photographs, and fingerprints required by subsection (4) of this section shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

(9) If a person who would be required to register pursuant to this section for a felony conviction is to be temporarily sent outside the institution where he or she is confined on any assignment within a city or county, including fire fighting, disaster control, or other assignment, the local law enforcement agency having jurisdiction over the place or places where the assignment shall occur shall be notified within a reasonable time prior to removal from the institution. This provision shall not apply to any person temporarily released under guard from the institution where he is confined.

The Committee Substitute to **HB 881** is as follows:

HB 881, AN ACT relating to child sexual abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) Each investigation of reported or suspected sexual abuse of a child shall be conducted by a specialized multidisciplinary team composed of law enforcement officers, social workers, Commonwealth's and county attorneys, and other related professionals, as necessary, operating under protocols governing roles, responsibilities, and procedures developed jointly by the Attorney General, the Administrative Office of the Courts, the Cabinet for Human Resources and the Justice Cabinet and promulgated by the Justice Cabinet as administrative regulations.

(2) Local protocols may be developed in each county by the agencies and persons specified in subsection (1) of this section specifying how the state protocols will be followed within the county. These protocols shall be in accordance with, and approved by, the Attorney General, the Administrative Office of the Courts, the Cabinet for Human Resources and the Justice Cabinet.

(3) If adequate personnel are available, each Commonwealth's attorney's office and each county attorney's office shall have a child sexual abuse specialist.

(4) Commonwealth's attorneys and county attorneys, or their assistants, shall take an active part in interviewing and familiarizing the child alleged to have been abused, or who is testifying as a witness, with the proceedings throughout the case, beginning as early as practicable in the case.

(5) If adequate personnel are available, Commonwealth's attorneys and county attorneys shall provide for an arrangement which allows one (1) lead prosecutor to handle the case from inception to completion to reduce the number of persons involved with the child victim.

(6) Commonwealth's attorneys and county attorneys and the Cabinet for Human Resources shall minimize the involvement of the child in legal proceedings, avoiding appearances at preliminary hearings, grand jury hearings and other proceedings when possible.

(7) Commonwealth's attorneys and county atorneys shall make appropriate referrals for counseling, private legal services, and other appropriate services to ensure the future protection of the child when a decision is made not to prosecute the case. The Commonwealth's attorney or county attorney shall explain the decision not to prosecute to the family or guardian, as appropriate, and to the child victim.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Justice Cabinet, the Attorney General, the Administrative Office of the Courts, and the Cabinet for Human Resources shall develop a training plan for investigation of child sexual abuse cases and protection of child sexual abuse victims within the Commonwealth. They may seek assistance from any educational, legal, and mental and physical health care professionals needed for implementation of training programs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General, Justice Cabinet, Administrative Office of the Courts, and Cabinet for Human Resources shall provide an in-service training program for Commonwealth's and county attorneys and their assistants in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each Commonwealth's and county attorney and each assistant Commonwealth's and county attorney shall attend the in-service training.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Kentucky Law Enforcement Council shall provide an in-service training program for peace officers in child development, the dynamics of physical and sexual abuse, the impact of violence on child development the treatment of offenders, and related issues. Each peace officer desiring to participate in the Kentucky Law Enforcement Foundation Fund program, if eligible to participate, shall successfully complete the in-service training.

SECTION 5. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Human Resources shall provide an in-service training program for social workers employed by the cabinet or by local public agencies in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each social worker employed by the cabinet or by a public agency who works with children or with families shall successfully complete the in-service training program in order to remain assigned to child or family social work programs. The cabinet shall specify the manner of training and related matters by administrative regulation.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The State Board of Medical Licensure shall provide in-service training programs for physicians, physicians assistants, paramedics, athletic trainers, and other persons licensed or certified by the board in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each person licensed or certified by the board shall successfully complete the training prescribed by administrative regulation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

The Kentucky Board of Nursing shall provide in-service training programs for nurses licensed by the board in child development, the dynamics of physical and sexual abuse, the impact of violence on child development, the treatment of offenders, and related issues. Each nurse licensed by the board shall successfully complete the training prescribed by the board by administrative regulation.

SECTION 8. A NEW SECTION OF KRS CHAPTER 21A IS CREATED TO READ AS FOLLOWS:

The Supreme Court shall provide in-service training programs for Circuit Judges, District Judges, and trial commissioners in child development, the dynamics of physical and sexual abused, the impact of violence on child development, the treatment of offenders, and related issues. Each Circuit Judge, District Judge, and trial commissioner shall successfully complete the training prescribed by the Supreme Court by rule.

SECTION 9. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) Courts shall implement measures to accommodate the special needs of children which are not unduly burdensome to the rights of the defendant, including, but not limited to:

(a) Trained guardians ad litem or special advocates, if available, shall be appointed for all child victims and shall serve in Circuit and District Courts to offer consistency and support to the child and to represent the child's interests where needed.

(b) During trials involving child victims or child witnesses, the environment of the courtroom shall be modified to accommodate children through the use of small chairs, frequent breaks, and the use of age appropriate language.

(c) Children expected to testify shall be prepared for the courtroom experience by the Commonwealth's or county attorney handling the case with the assistance of the guardian ad litem or special advocate.

(d) In appropriate cases, procedures shall be used to shield children from visual contact with alleged perpetrator.

(2) The Supreme Court is encouraged to issue rules for the conduct of criminal and civil trials involving child abuse in which a child victim or child witness may testify at the trial.

SECTION 10. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The Attorney General shall have staff available who are specially trained in child sexual abuse. Commonwealth's attorneys and county attorneys may request assistance in the investigation and prosecution of child sexual abuse cases in accordance with provisions of this chapter.

SECTION 11. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Each hospital licensed by the board shall provide medical and diagnostic services for child sexual abuse victims.

The Committee on Counties and Special Districts reported **HB 640**, with Committee Substitute attached thereto, **HB 870** and **SB 110** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 640, AN ACT relating to county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of seventy-five thousand (75,000) or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) ***In counties containing a city of the first class, the amount, if any, allowed for the necessary office expenses of each officer, the number of deputies and assistants allowed to each officer, and the compensation allowed to each deputy and assistant shall be fixed by the Department of Local Government no later than January 15 of each year. The department shall base its determination on an inspection of the officer's budget, which the officer shall submit to the department on or before December 15 of each year, and on public comment concerning that budget. Between January 1 and January 15 of each year, the department shall hold a public hearing, in the county served by the officer, to consider the proposed budget of the officer. The hearings for the sheriff and the county clerk of the same county may be consolidated into one (1) hearing per year. At least seven (7) days before each hearing, the department shall cause to be published in the newspaper with the largest circulation in the county a notice of the hearing and a complete copy of the budget or budgets to be considered at the hearing. The budget submitted to the department by the officer shall contain a detailed projection of all receipts and expenditures of the office, including, where applicable:***

(a) Receipts from the state, the county, school districts, other districts, licenses, taxes, record-keeping, court services, election duties, and investments;

(b) Disbursements to the state, the county, school districts, and other districts; and

(c) The total number of employees in the office, the number of employees in each salary category, and any employee bonuses.

(3) [~~In counties containing a city of the first class and~~] In counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the Circuit Court, and signed by the chief judge thereof.

(4) In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office.

(5) In all [~~other~~] counties with a population of seventy-five thousand (75,000) or more ***that do not contain a city of the first class or have an urban-county government***, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the ***primary legislative body of the county*** [~~fiscal court~~] by an order entered upon the [~~fiscal court~~] order book ***of the primary legislative body*** no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Department of Local Government.

(6)[~~(3)~~] Each officer shall, on the first day of each month, send to the Department of Local Government a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the Department of Local Government the amount so collected or received. The Department of Local Government may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(7)[~~(4)~~] The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Department of Local Government made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Department of Local Government to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Department of Local Government by the officer during his official term.

(8)[~~(5) In counties containing a city of the first class and~~] In counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the Circuit Court and signed by the chief judge thereof. In all [~~other~~] counties with a population of seventy-five thousand (75,000) or more ***that do not contain a city of the first class or have an urban-county government***, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the ***primary legislative body of the county*** [~~fiscal court~~] by an order entered upon the [~~fiscal court~~] order book ***of the primary legislative body*** no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Department of Local Government.

(9) For the purpose of this section, the primary legislative body of a county that does not have an urban-county or charter county form of government shall be the fiscal court.

Section 2. KRS 70.045 is amended to read as follows:

(1) The sheriff may appoint and have sworn in and entered on the county clerk order book one (1) special deputy for each two thousand five hundred (2,500) residents or part thereof in his county, to assist him with general law enforcement and maintenance of public order. The population of the county shall be determined by the most recent count or estimate by the federal Bureau of Census.

(2) The sheriff in each county may appoint and have sworn in, and entered on the county clerk order book, as many special deputies as needed to assist him in the execution of his duties and office in preparation for or during an emergency situation, such as fire, flood, tornado, storm, or other such emergency situations. For purposes of this section only, an emergency situation is a condition which, in the judgment of the sheriff, requires a response immediately necessary for the preservation of public peace, health or safety, utilizing special deputies previously appointed in preparation for the contingency.

(3) The special deputy shall:

(a) Be appointed and dismissed on the authority of the sheriff;

(b) Not receive any monetary compensation for his time or services;

(c) Serve at the request of the sheriff, unless personal conditions rule otherwise;

(d) Be answerable to and under the supervision of the sheriff, who shall be responsible for the actions of the special deputy; and

(e) Be appointed regardless of race, color, creed, or position.

(4) The position of special deputy as created and defined in subsections (1), (2), and (3) is subject to the provisions of this section only. ***The special deputy shall not be considered a peace officer.***

Section 3. KRS 43.070 is amended to read as follows:

(1) To determine whether any unauthorized, illegal, irregular, or unsafe handling or expenditure of revenue or other improper practice of financial administration has occurred and to assure that all proper items have been duly charged, taxed, and reported, the Auditor shall audit annually:

(a) The funds contained in each county's budget; and

(b) The books, accounts, and papers of all county clerks and sheriffs. ***The audit of a sheriff's office shall contain a comparison between budgeted revenues and actual revenues, and shall contain a comparison between budgeted expenses and actual expenses. The audit of a sheriff's office shall be on a program, or operating, basis, and shall contain separate statements of the revenues from each of the sheriff's duties, including tax collection, law enforcement, service to courts, election duties, and investments.***

(2) (a) The Auditor may audit the books, accounts and papers of all county judges/executive, county attorneys, coroners and constables; and

(b) The Auditor shall not conduct an audit pursuant to subsection (1)(a) or (b) of this section if the fiscal court or the elected official notifies the Auditor that a certified public accountant has been employed to audit the books, accounts and papers of the county or the fee office, in accordance with KRS 64.810.

(3) The county shall bear one-half (0.5) of the actual expense of the audit conducted pursuant to subsection (1)(a) of this section and shall bear the total actual expense of the audit conducted pursuant to subsections (1)(b) and (2) of this section. No county shall be required to bear the expense for more than one audit of the same fund or office annually pursuant to subsection (1)(a) or (b) of this section except as provided for in KRS 64.810(4).

(4) Within a reasonable time after the completion and distribution of the audit reports authorized by subsection (1) of this section, the Auditor of Public Accounts shall bill the county for the expenses incurred pursuant to subsection (3) of this section. A copy of this bill shall be forwarded to the secretary of the Finance and Administration Cabinet. Should the fiscal court within sixty (60) days following receipt of said bill determine the charge to be excessive or otherwise improper it shall submit its objection to the secretary of the Finance and Administration Cabinet and to the State Treasurer for resolution of the controversy in accordance with subsection (5) of this section. If the amount billed has not been paid within sixty (60) days from date of billing, and no objection has been filed, the Auditor shall notify the secretary of the Finance and Administration Cabinet and the secretary of revenue who shall cause said amount to be deducted from the next payment or return of moneys provided by KRS 47.110 by the state to the county or counties. Deductions shall continue until the total amount due the Auditor's office has been paid. All moneys received pursuant to this section shall be credited to the trust and agency account of the Auditor of Public Accounts. When an objection to the bill has been filed with the secretary of the Finance and Administration Cabinet and the State Treasurer in accordance with subsection (5) of this section the amount found to be equitable and just shall become payable immediately upon the entry of the final decision.

(5) Any controversy over the amount of the bill for the actual expenses incurred shall be submitted by the fiscal court to the secretary of the Finance and Administration Cabinet and the State Treasurer for a decision as to the proper amount. In the event that these two (2) arbitrators fail to agree, then the controversy shall be submitted to the Attorney General, whose decision shall be final.

Section 4. KRS 64.200 is amended to read as follows:

(1) In counties containing a population of over 250,000, [~~for the performance of the duties of his office, each constable shall be exclusively compensated by a salary of nine thousand six hundred dollars per annum to be paid in equal monthly installments out of the county treasury.~~

~~(2)~~] each ***justice of the peace*** [~~constable and deputy constable~~] shall daily deliver or cause to be delivered to the recorder for the justice's district in which he holds office all moneys received or collected by him by virtue of his office, or the recorder may receive such moneys for the ***justice of the peace*** [~~officer~~], and in either event the recorder shall daily issue to each ***justice of the peace*** [~~officer~~] a receipt for moneys received from or for him. Each recorder shall keep such records of each daily transaction, in such manner and form, and showing such information, as the fiscal court of the county requires.

(2)[~~(3)~~] All moneys received or collected on account of or resulting from the performance of the duties or the exercise of the powers incident to the ***office*** [~~offices~~] of ***justice of the peace*** [~~constable and deputy constable~~] shall be paid into the county treasury.

(3)[~~(4)~~] Before the tenth day of each calendar month the recorder for each justice's district shall prepare a sworn statement showing the correct amounts of money received or collected during the next preceding calendar month from the administration of the ***office*** [~~offices~~] of ***justice of the peace*** [~~constable and deputy constable~~]. The statement shall be in the form and shall disclose the information required by the fiscal court. Each monthly statement, and as many copies thereof as the fiscal court may require, shall be subscribed and sworn to by the recorder. On or before the tenth day of each calendar month each recorder shall deliver one or more copies of the monthly statement to the fiscal court, or such person as the fiscal court designates, and at the same time deliver by certified check, payable to the order of the county treasurer, the total sum of money received by the recorder under the provisions of this section during the next preceding calendar month. During the interims between such monthly statements each recorder shall safely preserve the funds coming into his hands by virtue of this section in a bank designated by the justice of the peace, which bank shall duly execute a depository bond in a sufficient amount to cover monthly balances.

Section 5. KRS 64.250 is amended to read as follows:

[~~(1)~~] In counties containing a population of over 250,000, each justice of the peace shall be exclusively compensated for the performance of the duties of his office by a salary to be determined by the fiscal court at a rate no less than $9,600 per annum but no greater than $12,000 per annum, which shall be paid, in equal monthly installments, out of the county treasury.

[~~(2) The provisions of subsections (2), (3) and (4) of KRS 64.200 shall apply to justices of the peace in counties containing a population of over 250,000, the same as to constables, and the recorder shall perform the same duties and functions in regard to moneys collected by or for justices of the peace as they are required by KRS 64.200 to perform in regard to moneys collected by or for constables.~~]

Section 6. KRS 70.320 is amended to read as follows:

No constable shall employ a deputy constable [~~(1) The appointment of deputy constables shall be authorized only in counties containing a first or second-class city. In such counties each constable may appoint one or more deputies with the consent of the county judge/executive. The constable and his surety are liable on his bond for all the acts and omissions of his deputies.~~

~~(2) Deputy constables may be removed at any time for any cause deemed sufficient by the constable by order of the county judge/executive entered after filing of a written direction by the constable.~~

~~(3) Each deputy constable in counties containing a city of the first class shall be compensated for his services by salary fixed by the fiscal court, and paid out of the county levy~~].

Section 7. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, or any combination of cities and counties, of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county or city government who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any elected officer, sheriff, deputy sheriff, constable, [~~deputy constable,~~] district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

Section 8. KRS 35.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "National Guard" means the Kentucky Army National Guard and the Kentucky Air National Guard;

(2) "Active militia" means a volunteer defense unit other than the National Guard;

(3) "Officer" means a commissioned officer, including a warrant officer;

(4) "Superior commissioned officer" means a commissioned officer superior in rank or command;

(5) "Enlisted person" means any person who is serving in an enlisted grade in any force of the National Guard or active militia;

(6) "Active state service" means full-time military duty in the active service of the state under an order of the governor as defined in subsection (4) of KRS 38.010, including travel to and from such duty;

(7) "Military court" means a court-martial, a court of inquiry, a provost court, or a military commission;

(8) "Military judge" means an official of general and special courts-martial detailed in accordance with KRS 35.125;

(9) "Subject person" means person subject to this chapter;

(10) "Code" means this chapter;

(11) "Commissioned officer" includes a commissioned warrant officer;

(12) "Commanding officer" includes only commissioned officers;

(13) "Grade" means a step or degree in a graduated scale of office or military rank that is established by law or regulation;

(14) "Rank" means order of precedence among members of the National Guard or active militia;

(15) "Duty status" includes active state duty and any other type of state military duty, including travel to and from such duty;

(16) "State judge advocate" means the commissioned officer responsible for supervising the administration of military justice in the National Guard or active militia;

(17) "Accuser" means a person who signs and swears to charges, any person who directs that charges normally be signed and sworn to by another, and any person who has an interest other than an official interest in the prosecution of the accused;

(18) "Military" refers to any or all of the Armed Forces;

(19) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command; and

(20) "Peace officer" as used in this chapter means any sheriff, deputy sheriff, constable, [~~deputy constable,~~] sworn police officer, sworn enforcement officer of the Kentucky State Police or other duly authorized state law enforcement agency and other persons with similar authority to make arrests under the provisions of the Kentucky Revised Statutes.

Section 9. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, [~~deputy constable,~~] patrol or other nonelective peace officer, or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) If a [~~deputy constable or~~] special local peace officer appointed pursuant to KRS 61.360, he has resided in the county wherein he is appointed to serve for a period of at least two (2) years; and if a deputy sheriff, he agrees to reside in the county wherein he is appointed within ninety (90) days of his appointment, and to continue his residence therein during the term of his appointment. Any deputy sheriff appointed pursuant to this section who has not been a resident of the county for a period of at least two (2) years shall not be an active participant in any labor dispute and shall immediately forfeit his position if he violates this provision;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen, or private guards, or advertised or solicited any such business in connection with any labor dispute; and

(5) He has complied with the provisions of KRS 15.333.

Section 10. KRS 61.310 is amended to read as follows:

(1) "Peace officer," as used in this section, means any sheriff, deputy sheriff, constable, [~~deputy constable,~~] patrol or any other peace officer or deputy peace officer except those appointed pursuant to KRS 61.360 or 277.270 and those employed by a board of education.

(2) No peace officer shall receive any compensation or remuneration, directly or indirectly, from any person for the performance of any service or duty except that he may be compensated for employment authorized by subsection (4) of this section. Any peace officer who violates this subsection may be removed from office, under the provisions of KRS 63.170.

(3) Peace officers shall receive for the performance of their services and duties only such compensation or remuneration as is regularly provided and paid out of the public funds to the amount and in the manner provided by law except that they may be compensated from private funds for employment authorized by subsection (4) of this section. Donations made by persons to any governmental unit or officer thereof do not constitute public funds within the meaning of this subsection.

(4) A peace officer may, while in office, and during hours other than regular or scheduled duty hours, act in any private employment as guard or watchman or in any other similar or private employment. However, he may not participate directly or indirectly, in any labor dispute during his off-duty hours. Any peace officer who violates this subsection may be removed from office, under the provisions of KRS 63.170.

(5) No principal peace officer shall appoint or continue the appointment of any deputy contrary to the provisions of this section. When it appears by the affidavit of two (2) citizens, taxpayers of the county, filed with any principal peace officer, that there is reasonable cause to believe that any of his deputies are receiving compensation from private sources contrary to the provisions of this section, the peace officer shall forthwith investigate the charges contained in the affidavit, and if he finds the charges are true he shall forthwith remove any such deputy from office. Failure to do so shall constitute neglect of duty on the part of the principal peace officer, and he may be removed from office under the provisions of KRS 63.170.

(6) In addition to being subject to removal from office, any peace officer who violates any of the provisions of this section shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or confined in jail for not more than one (1) year, or both.

(7) Except as provided in KRS 61.360 and 277.280, any person who directly or indirectly pays or contributes or causes to be paid or contributed any money or other thing of value to any peace officer or to any governmental unit or officer thereof, either as a gift or donation for the performance of any public duty shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000).

Section 11. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

(1) "Commission" means a commission issued to an individual by the secretary of justice, entitling such individual to perform special law enforcement duties on public property;

(2) "Council" means the Kentucky Law Enforcement Council;

(3) "Cabinet" means the Justice Cabinet;

(4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;

(5) "Secretary" means the secretary of the Justice Cabinet;

(6) "Special law enforcement officer":

(a) Means one whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;

(b) Means one whose duties include the prevention, observation or detection of, or apprehension for, any unlawful activity on specific public property;

(c) Means one whose special duties include the control of the operation, speed and parking of motor vehicles, bicycles and other vehicles, and the movement of pedestrian traffic on specific public property;

(d) Means one whose duties include the answering of any intrusion alarm on specific public property;

(e) Shall include the Capitol police, the Capital Plaza police, public school district security officers, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and

(f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:

1. Sheriffs, sworn deputy sheriffs, city marshals, constables, [~~sworn deputy constables,~~] and coroners;

2. Auxiliary and reserve police appointed under KRS 95.160, 95.445, or 95.740;

3. State park rangers and conservation officers;

4. Officers of the Transportation Cabinet and Division of Water Patrol responsible for law enforcement;

5. Officers of the Corrections Cabinet responsible for law enforcement;

6. Fire marshals and deputy fire marshals;

7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;

8. Federal peace officers;

9. Those campus security officers who are commissioned under KRS 164.950;

10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and

11. Railroad policemen covered by KRS 277.270 and 277.280; and

(7) "Sworn public peace officer" means one (1) who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch or service of either, or of any municipality.

Section 12. KRS 70.430 is amended to read as follows:

(1) Constables in counties containing a population of over 250,000 on or before the tenth day of each calendar month shall make a report to the county clerk concerning the performance of the duties of office [~~by himself and his deputies~~] during the next preceding calendar month.

(a) Under the heading of civil matters, the report shall contain a statement showing the total number of each kind of civil processes and orders received, the total number of each returned executed, returned unexecuted, and not returned and not executed.

(b) Under the heading of criminal matters, the report shall contain a list of the names and addresses of all persons for whom warrants of arrest have been obtained by the constable [~~and his deputies~~], noting the name of the officer obtaining each warrant, the name of the officer executing each warrant, and indicating the warrants returned executed, returned unexecuted, and not returned and not executed; a list of the names and addresses of all persons for whom warrants of arrest have been obtained by others and delivered to the constable [~~and his deputies~~] for execution, noting the name and address of the person obtaining each warrant; the name of the officer executing it, and indicating the warrants returned executed, returned unexecuted, and not returned and not executed; a list of the names and addresses of all persons arrested by the constable [~~and his deputies~~] without warrant, noting the name of the officer making the arrest and the cause of the arrest; a list of all the places for which search warrants have been obtained by the constable [~~and his deputies~~], noting the name of the officer obtaining each search warrant, the name of the officer executing it, and indicating the search warrants returned executed, returned and unexecuted, and not returned, and not executed.

(c) Under the heading of other matters, the report shall contain a brief but adequate report upon all other acts of the constable [~~and his deputies~~] performed under authority, or under color of authority, of office.

(2) Each monthly report shall be subscribed and sworn to by the constable and such parts thereof as pertain to [~~the~~] acts [~~of his deputies~~] beyond his presence shall be deemed to be sworn to upon information and belief. The clerk shall cause attested copies thereof to be promptly delivered to the county judge/executive, the county attorney, and the attorney for the Commonwealth.

Section 13. KRS 70.440 is amended to read as follows:

No constable [~~or deputy constable~~] in any county containing a population of over 250,000 shall make, participate in making, or knowingly permit another to make a false entry, or omit, or participate in or permit the omission of, any proper entry, in his official books or records, or knowingly make or participate in the making of any false statement or report, with intent to cheat or defraud the state, the county or any person.

Section 14. KRS 70.990 is amended to read as follows:

(1) If the sheriff fails to renew the bond required of him by KRS 70.020 when ordered to do so by the county judge/executive, the county judge/executive shall suspend him from acting until he conforms with the order, or may vacate his office.

(2) If the sheriff violates any of the provisions of KRS 70.140, he may be summarily fined, not more than twenty dollars ($20), by the court in which the offense is committed.

(3) Any sheriff who knowingly makes a false or illegal return on any process or fee-bill, by color of his office, shall be liable to the person injured for treble the damage caused thereby.

(4) If the constable fails to give additional security or to renew his bond when ordered to do so by the county judge/executive, the county judge/executive shall enter an order declaring his office vacant.

(5) Any constable who executes any process, other than a fee-bill for his own service, in which he is personally interested shall be fined ten dollars ($10) for each offense.

(6) Any constable who violates any of the provisions of KRS 70.390 shall be fined five dollars ($5). If he violates subsections (1) or (2) of KRS 70.390 he shall be liable for the amount of the claim.

(7) Any constable [~~or deputy constable~~] in any county containing a population of over 250,000 who violates any of the provisions of KRS 70.440 shall be confined in the penitentiary for not less than two (2) nor more than ten (10) years.

(8) If the constable fails to return any process, placed in his hands, by the return day, the plaintiff may recover five dollars ($5) from him upon motion before the court from which the process issued.

(9) If a constable fails without reasonable excuse to return process placed in his hands for collection within twenty (20) days after the return day he shall be liable for the amount of the process plus ten percent (10%).

Section 15. KRS 281.765 is amended to read as follows:

Any peace officer, including sheriffs and their deputies, constables [~~and their deputies~~], police officers and marshals of cities or incorporated towns, county police or patrols, and special officers appointed by any agency of the Commonwealth of Kentucky for the enforcement of its laws relating to motor vehicles and boats or boating, now existing or hereafter enacted, shall be authorized and it is hereby made the duty of each of them to enforce the provisions of this chapter and to make arrests for any violation or violations thereof, and for violations of any other law relating to motor vehicles and boating, without warrant if the offense be committed in his presence, and with warrant or summons if he does not observe the commission of the offense. When in pursuit of any offender for any offense committed within his jurisdiction, any such officer may follow and effect an arrest beyond the limits of his jurisdiction. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him. If the accused elects not to be so taken, then it shall be the duty of the officer to require of the accused a bail-bond in a sum not less than one hundred dollars ($100), conditioned that the accused binds himself to appear in the court of jurisdiction at the time fixed in the bond, not however in any case later than six (6) days from the day of arrest. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall report the same to the court having jurisdiction within eighteen (18) hours after taking such bond.

Section 16. KRS 335B.070 is amended to read as follows:

The provisions of KRS 335B.020 to 335B.060 shall not apply to:

(1) The practice of law; but nothing in this section shall be construed to preclude the Supreme Court in its discretion, from adopting the policies set forth in KRS 335B.020 to 335B.060.

(2) Deputy sheriffs, [~~deputy constables,~~] patrol or other nonelective peace officers or deputy peace officers, for whom qualifications are set forth in KRS 61.300.

Section 17. KRS 431.007 is amended to read as follows:

(1) A policeman directly employed as a full-time police officer by a Kentucky city, county, or urban-county government and whose department meets the requirements of KRS 15.440 and a sheriff or full-time deputy sheriff who is officially requested by a law enforcement agency in another county in Kentucky to assist in any matter within the jurisdiction of the requesting agency shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest in the requesting county as he possesses in the county in which he is a police officer.

(2) The provisions of this section shall not:

(a) Authorize assistance in any labor dispute or strike;

(b) Authorize assistance by a constable [~~or deputy constable~~];

(c) Authorize assistance by a special local peace officer; or

(d) Authorize assistance by a special deputy sheriff.

Section 18. KRS 64.017 is amended to read as follows:

(1) The county clerk of any county shall receive a maximum annual expense allowance of $3,600 to be paid from the fees collected by the clerk. In counties of less than 75,000 population, the expense allowance shall be taken in monthly installments of $300 from fees collected on a calendar year basis. In counties of 75,000 or more population, the allowance shall be paid in semi-monthly installments of $150 according to the procedures found in KRS 64.345***(7)***[~~(4)~~]. The expense allowance provided by this section shall be in addition to other lawful expense payments.

(2) If the amount of fees collected will not fund the full amount of the annual expense allowance, then the county clerk shall receive the excess of such fees after all other lawful expenses and salaries have been paid. The fiscal court of any county may pay that portion of the maximum annual expense allowance for which no excess fees are available.

Section 19. The following KRS section is repealed:

64.210 Allowance to constables and deputies in counties containing first-class city.

The Committee Substitute to **HB 640** is as follows:

HB 640, AN ACT relating to county officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.200 is amended to read as follows:

(1) In counties containing a population of over 250,000, [~~for the performance of the duties of his office, each constable shall be exclusively compensated by a salary of nine thousand six hundred dollars per annum to be paid in equal monthly installments out of the county treasury.~~

~~(2)~~] each ***justice of the peace*** [~~constable and deputy constable~~] shall daily deliver or cause to be delivered to the recorder for the justice's district in which he holds office all moneys received or collected by him by virtue of his office, or the recorder may receive such moneys for the ***justice of the peace*** [~~officer~~], and in either event the recorder shall daily issue to each ***justice of the peace*** [~~officer~~] a receipt for moneys received from or for him. Each recorder shall keep such records of each daily transaction, in such manner and form, and showing such information, as the fiscal court of the county requires.

(2)[~~(3)~~] All moneys received or collected on account of or resulting from the performance of the duties or the exercise of the powers incident to the ***office*** [~~offices~~] of ***justice of the peace*** [~~constable and deputy constable~~] shall be paid into the county treasury.

(3)[~~(4)~~] Before the tenth day of each calendar month the recorder for each justice's district shall prepare a sworn statement showing the correct amounts of money received or collected during the next preceding calendar month from the administration of the ***office*** [~~offices~~] of ***justice of the peace*** [~~constable and deputy constable~~]. The statement shall be in the form and shall disclose the information required by the fiscal court. Each monthly statement, and as many copies thereof as the fiscal court may require, shall be subscribed and sworn to by the recorder. On or before the tenth day of each calendar month each recorder shall deliver one or more copies of the monthly statement to the fiscal court, or such person as the fiscal court designates, and at the same time deliver by certified check, payable to the order of the county treasurer, the total sum of money received by the recorder under the provisions of this section during the next preceding calendar month. During the interims between such monthly statements each recorder shall safely preserve the funds coming into his hands by virtue of this section in a bank designated by the justice of the peace, which bank shall duly execute a depository bond in a sufficient amount to cover monthly balances.

Section 2. KRS 64.250 is amended to read as follows:

[~~(1)~~] In counties containing a population of over 250,000, each justice of the peace shall be exclusively compensated for the performance of the duties of his office by a salary to be determined by the fiscal court at a rate no less than $9,600 per annum but no greater than $12,000 per annum, which shall be paid, in equal monthly installments, out of the county treasury.

[~~(2) The provisions of subsections (2), (3) and (4) of KRS 64.200 shall apply to justices of the peace in counties containing a population of over 250,000, the same as to constables, and the recorder shall perform the same duties and functions in regard to moneys collected by or for justices of the peace as they are required by KRS 64.200 to perform in regard to moneys collected by or for constables.~~]

Section 3. KRS 70.320 is amended to read as follows:

No constable shall employ a deputy constable [~~(1) The appointment of deputy constables shall be authorized only in counties containing a first or second-class city. In such counties each constable may appoint one or more deputies with the consent of the county judge/executive. The constable and his surety are liable on his bond for all the acts and omissions of his deputies.~~

~~(2) Deputy constables may be removed at any time for any cause deemed sufficient by the constable by order of the county judge/executive entered after filing of a written direction by the constable.~~

~~(3) Each deputy constable in counties containing a city of the first class shall be compensated for his services by salary fixed by the fiscal court, and paid out of the county levy~~].

Section 4. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, or any combination of cities and counties, of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county or city government who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky State Police, any elected officer, sheriff, deputy sheriff, constable, [~~deputy constable,~~] district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky Law Enforcement Council.

Section 5. KRS 35.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "National Guard" means the Kentucky Army National Guard and the Kentucky Air National Guard;

(2) "Active militia" means a volunteer defense unit other than the National Guard;

(3) "Officer" means a commissioned officer, including a warrant officer;

(4) "Superior commissioned officer" means a commissioned officer superior in rank or command;

(5) "Enlisted person" means any person who is serving in an enlisted grade in any force of the National Guard or active militia;

(6) "Active state service" means full-time military duty in the active service of the state under an order of the governor as defined in subsection (4) of KRS 38.010, including travel to and from such duty;

(7) "Military court" means a court-martial, a court of inquiry, a provost court, or a military commission;

(8) "Military judge" means an official of general and special courts-martial detailed in accordance with KRS 35.125;

(9) "Subject person" means person subject to this chapter;

(10) "Code" means this chapter;

(11) "Commissioned officer" includes a commissioned warrant officer;

(12) "Commanding officer" includes only commissioned officers;

(13) "Grade" means a step or degree in a graduated scale of office or military rank that is established by law or regulation;

(14) "Rank" means order of precedence among members of the National Guard or active militia;

(15) "Duty status" includes active state duty and any other type of state military duty, including travel to and from such duty;

(16) "State judge advocate" means the commissioned officer responsible for supervising the administration of military justice in the National Guard or active militia;

(17) "Accuser" means a person who signs and swears to charges, any person who directs that charges normally be signed and sworn to by another, and any person wo has an interest other than an official interest in the prosecution of the accused;

(18) "Military" refers to any or all of the Armed Forces;

(19) "Convening authority" includes, in addition to the person who convened the court, a commissioned officer commanding for the time being or a successor in command; and

(20) "Peace officer" as used in this chapter means any sheriff, deputy sheriff, constable, [~~deputy constable,~~] sworn police officer, sworn enforcement officer of the Kentucky State Police or other duly authorized state law enforcement agency and other persons with similar authority to make arrests under the provisions of the Kentucky Revised Statutes.

Section 6. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, [~~deputy constable,~~] patrol or other nonelective peace officer, or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) If a [~~deputy constable or~~] special local peace officer appointed pursuant to KRS 61.360, he has resided in the county wherein he is appointed to serve for a period of at least two (2) years; and if a deputy sheriff, he agrees to reside in the county wherein he is appointed within ninety (90) days of his appointment, and to continue his residence therein during the term of his appointment. Any deputy sheriff appointed pursuant to this section who has not been a resident of the county for a period of at least two (2) years shall not be an active participant in any labor dispute and shall immediately forfeit his position if he violates this provision;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen, or private guards, or advertised or solicited any such business in connection with any labor dispute; and

(5) He has complied with the provisions of KRS 15.333.

Section 7. KRS 61.310 is amended to read as follows:

(1) "Peace officer," as used in this section, means any sheriff, deputy sheriff, constable, [~~deputy constable,~~] patrol or any other peace officer or deputy peace officer except those appointed pursuant to KRS 61.360 or 277.270 and those employed by a board of education.

(2) No peace officer shall receive any compensation or remuneration, directly or indirectly, from any person for the performance of any service or duty except that he may be compensated for employment authorized by subsection (4) of this section. Any peace officer who violates this subsection may be removed from office, under the provisions of KRS 63.170.

(3) Peace officers shall receive for the performance of their services and duties only such compensation or remuneration as is regularly provided and paid out of the public funds to the amount and in the manner provided by law except that they may be compensated from private funds for employment authorized by subsection (4) of this section. Donations made by persons to any governmental unit or officer thereof do not constitute public funds within the meaning of this subsection.

(4) A peace officer may, while in office, and during hours other than regular or scheduled duty hours, act in any private employment as guard or watchman or in any other similar or private employment. However, he may not participate directly or indirectly, in any labor dispute during his off-duty hours. Any peace officer who violates this subsection may be removed from office, under the provisions of KRS 63.170.

(5) No principal peace officer shall appoint or continue the appointment of any deputy contrary to the provisions of this section. When it appears by the affidavit of two (2) citizens, taxpayers of the county, filed with any principal peace officer, that there is reasonable cause to believe that any of his deputies are receiving compensation from private sources contrary to the provisions of this section, the peace officer shall forthwith investigate the charges contained in the affidavit, and if he finds the charges are true he shall forthwith remove any such deputy from office. Failure to do so shall constitute neglect of duty on the part of the principal peace officer, and he may be removed from office under the provisions of KRS 63.170.

(6) In addition to being subject to removal from office, any peace officer who violates any of the provisions of this section shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or confined in jail for not more than one (1) year, or both.

(7) Except as provided in KRS 61.360 and 277.280, any person who directly or indirectly pays or contributes or causes to be paid or contributed any money or other thing of value to any peace officer or to any governmental unit or officer thereof, either as a gift or donation for the performance of any public duty shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000).

Section 8. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

(1) "Commission" means a commission issued to an individual by the secretary of justice, entitling such individual to perform special law enforcement duties on public property;

(2) "Council" means the Kentucky Law Enforcement Council;

(3) "Cabinet" means the Justice Cabinet;

(4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;

(5) "Secretary" means the secretary of the Justice Cabinet;

(6) "Special law enforcement officer":

(a) Means one whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;

(b) Means one whose duties include the prevention, observation or detection of, or apprehension for, any unlawful activity on specific public property;

(c) Means one whose special duties include the control of the operation, speed and parking of motor vehicles, bicycles and other vehicles, and the movement of pedestrian traffic on specific public property;

(d) Means one whose duties include the answering of any intrusion alarm on specific public property;

(e) Shall include the Capitol police, the Capital Plaza police, public school district security officers, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and

(f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:

1. Sheriffs, sworn deputy sheriffs, city marshals, constables, [~~sworn deputy constables,~~] and coroners;

2. Auxiliary and reserve police appointed under KRS 95.160, 95.445, or 95.740;

3. State park rangers and conservation officers;

4. Officers of the Transportation Cabinet and Division of Water Patrol responsible for law enforcement;

5. Officers of the Corrections Cabinet responsible for law enforcement;

6. Fire marshals and deputy fire marshals;

7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;

8. Federal peace officers;

9. Those campus security officers who are commissioned under KRS 164.950;

10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and

11. Railroad policemen covered by KRS 277.270 and 277.280; and

(7) "Sworn public peace officer" means one (1) who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch or service of either, or of any municipality.

Section 9. KRS 70.430 is amended to read as follows:

(1) Constables in counties containing a population of over 250,000 on or before the tenth day of each calendar month shall make a report to the county clerk concerning the performance of the duties of office [~~by himself and his deputies~~] during the next preceding calendar month.

(a) Under the heading of civil matters, the report shall contain a statement showing the total number of each kind of civil processes and orders received, the total number of each returned executed, returned unexecuted, and not returned and not executed.

(b) Under the heading of criminal matters, the report shall contain a list of the names and addresses of all persons for whom warrants of arrest have been obtained by the constable [~~and his deputies~~], noting the name of the officer obtaining each warrant, the name of the officer executing each warrant, and indicating the warrants returned executed, returned unexecuted, and not returned and not executed; a list of the names and addresses of all persons for whom warrants of arrest have been obtained by others and delivered to the constable [~~and his deputies~~] for execution, noting the name and address of the person obtaining each warrant; the name of the officer executing it, and indicating the warrants returned executed, returned unexecuted, and not returned and not executed; a list of the names and addresses of all persons arrested by the constable [~~and his deputies~~] without warrant, noting the name of the officer making the arrest and the cause of the arrest; a list of all the places for which search warrants have been obtained by the constable [~~and his deputies~~], noting the name of the officer obtaining each search warrant, the name of the officer executing it, and indicating the search warrants returned executed, returned and unexecuted, and not returned, and not executed.

(c) Under the heading of other matters, the report shall contain a brief but adequate report upon all other acts of the constable [~~and his deputies~~] performed under authority, or under color of authority, of office.

(2) Each monthly report shall be subscribed and sworn to by the constable and such parts thereof as pertain to [~~the~~] acts [~~of his deputies~~] beyond his presence shall be deemed to be sworn to upon information and belief. The clerk shall cause attested copies thereof to be promptly delivered to the county judge/executive, the county attorney, and the attorney for the Commonwealth.

Section 10. KRS 70.440 is amended to read as follows:

No constable [~~or deputy constable~~] in any county containing a population of over 250,000 shall make, participate in making, or knowingly permit another to make a false entry, or omit, or participate in or permit the omission of, any proper entry, in his official books or records, or knowingly make or participate in the making of any false statement or report, with intent to cheat or defraud the state, the county or any person.

Section 11. KRS 70.990 is amended to read as follows:

(1) If the sheriff fails to renew the bond required of him by KRS 70.020 when ordered to do so by the county judge/executive, the county judge/executive shall suspend him from acting until he conforms with the order, or may vacate his office.

(2) If the sheriff violates any of the provisions of KRS 70.140, he may be summarily fined, not more than twenty dollars ($20), by the court in which the offense is committed.

(3) Any sheriff who knowingly makes a false or illegal return on any process or fee-bill, by color of his office, shall be liable to the person injured for treble the damage caused thereby.

(4) If the constable fails to give additional security or to renew his bond when ordered to do so by the county judge/executive, the county judge/executive shall enter an order declaring his office vacant.

(5) Any constable who executes any process, other than a fee-bill for his own service, in which he is personally interested shall be fined ten dollars ($10) for each offense.

(6) Any constable who violates any of the provisions of KRS 70.390 shall be fined five dollars ($5). If he violates subsections (1) or (2) of KRS 70.390 he shall be liable for the amount of the claim.

(7) Any constable [~~or deputy constable~~] in any county containing a population of over 250,000 who violates any of the provisions of KRS 70.440 shall be confined in the penitentiary for not less than two (2) nor more than ten (10) years.

(8) If the constable fails to return any process, placed in his hands, by the return day, the plaintiff may recover five dollars ($5) from him upon motion before the court from which the process issued.

(9) If a constable fails without reasonable excuse to return process placed in his hands for collection within twenty (20) days after the return day he shall be liable for the amount of the process plus ten percent (10%).

Section 12. KRS 281.765 is amended to read as follows:

Any peace officer, including sheriffs and their deputies, constables [~~and their deputies~~], police officers and marshals of cities or incorporated towns, county police or patrols, and special officers appointed by any agency of the Commonwealth of Kentucky for the enforcement of its laws relating to motor vehicles and boats or boating, now existing or hereafter enacted, shall be authorized and it is hereby made the duty of each of them to enforce the provisions of this chapter and to make arrests for any violation or violations thereof, and for violations of any other law relating to motor vehicles and boating, without warrant if the offense be committed in his presence, and with warrant or summons if he does not observe the commission of the offense. When in pursuit of any offender for any offense committed within his jurisdiction, any such officer may follow and effect an arrest beyond the limits of his jurisdiction. If the arrest be made without warrant, the accused may elect to be immediately taken before the nearest court having jurisdiction, whereupon it shall be the duty of the officer to so take him. If the accused elects not to be so taken, then it shall be the duty of the officer to require of the accused a bail-bond in a sum not less than one hundred dollars ($100), conditioned that the accused binds himself to appear in the court of jurisdiction at the time fixed in the bond, not however in any case later than six (6) days from the day of arrest. In case the arrested person fails to appear on the day fixed, the bond shall be forfeited in the manner as is provided for the forfeiture of bonds in other cases. No officer shall be permitted to take a cash bond. The officer making the arrest and taking the bond shall report the same to the court having jurisdiction within eighteen (18) hours after taking such bond.

Section 13. KRS 335B.070 is amended to read as follows:

The provisions of KRS 335B.020 to 335B.060 shall not apply to:

(1) The practice of law; but nothing in this section shall be construed to preclude the Supreme Court in its discretion, from adopting the policies set forth in KRS 335B.020 to 335B.060.

(2) Deputy sheriffs, [~~deputy constables,~~] patrol or other nonelective peace officers, or deputy peace officers, for whom qualifications are set forth in KRS 61.300.

Section 14. KRS 431.007 is amended to read as follows:

(1) A policeman directly employed as a full-time police officer by a Kentucky city, county, or urban-county government and whose department meets the requirements of KRS 15.440 and a sheriff or full-time deputy sheriff who is officially requested by a law enforcement agency in another county in Kentucky to assist in any matter within the jurisdiction of the requesting agency shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest in the requesting county as he possesses in the county in which he is a police officer.

(2) The provisions of this section shall not:

(a) Authorize assistance in any labor dispute or strike;

(b) Authorize assistance by a constable [~~or deputy constable~~];

(c) Authorize assistance by a special local peace officer; or

(d) Authorize assistance by a special deputy sheriff.

Section 15. The following KRS section is repealed:

64.210 Allowance to constables and deputies in counties containing first-class city.

Section 16. This Act shall become effective on January 1, 1996.

HB 870, AN ACT relating to compensation of jailers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.527 is amended to read as follows:

In order to equate the compensation of county judges/executive, county clerks, sheriffs, ***jailers,*** justices of the peace, county commissioners, and coroners with the purchasing power of the dollar, the Department of Local Government shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than seven thousand two hundred dollars ($7,200) per annum. The Department of Local Government shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Department of Local Government, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Department of Local Government.

SB 110, AN ACT relating to county attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 78 IS CREATED TO READ AS FOLLOWS:

(1) Any county attorney who employs persons paid from the county attorney's delinquent tax fees, from federal or state grant funds received for the county attorney's delinquent child support collection responsibilities, or from any other funding source not subject to the control of the fiscal court, urban-county government, or Prosecutors Advisory Council, or any county attorney who supplements the wages of a County Employees Retirement System or Kentucky Employees Retirement System member from these sources, shall participate as an employer in the County Employees Retirement System or the Kentucky Employees Retirement System in the manner prescribed in this section.

(2) It shall be the responsibility of each county attorney, participating as an employer in the County Employees Retirement System or the Kentucky Employees Retirement System, to determine membership in the appropriate retirement system for each employee being paid in the manner described in subsection (1) of this section. In making this determination, the participating county attorney shall consider whether the job function of each affected employee is related to the prosecutorial duties of the county attorney's

office and is therefore subject to Kentucky Employees Retirement System membership, or the legal representation of the fiscal court and other county officers and is therefore subject to County Employees Retirement System membership, and the county attorney shall certify the same to the board on forms provided by the board. For persons already participating in the County Employees Retirement System or the Kentucky Employees Retirement System, whose wages are supplemented by the participating county attorney, the county attorney shall make the required contributions for the supplementary wages to the person's current retirement system.

The Committee on Cities reported **SB 151**, with Committee Substitute attached thereto, and **SB 215** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 151, AN ACT relating to death benefits paid to survivors of police officers and firefighters and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, elected to office or employed by any county, airport board created pursuant to KRS Chapter 183 or city or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, or any county, city, fire district or any other organized fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. In the event death benefits are paid under KRS 61.316 to eligible survivors of a volunteer firefighter, then no benefits shall be paid to those survivors under this section.

(2) The spouse of any police officer, sheriff, deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, or firefighter whose death occurs ***on or after January 1, 1992,*** as a direct result of an act in the line of duty shall receive a lump-sum payment of ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~], which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay ***twenty*** [~~ten~~] thousand dollars ***($20,000)*** [~~($10,000)~~] to the surviving children; and

(b) Hold ***thirty*** [~~fifteen~~] thousand dollars ***($30,000)*** [~~($15,000)~~] in trust divided into equal accounts at appropriate interest rates for each surviving child until such child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including but not limited to defining when a firefighter has died in line of duty.

(4) The Justice Cabinet shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including but not limited to defining when a police officer has died in line of duty.

(5) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or firefighter's retirement or benefit fund established by the state, county, or any municipality.

(6) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section, shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 2. It is the intent of the General Assembly, upon this Act becoming law, that the benefits specified within this Act shall apply to the survivors of police officers and firefighters killed in the line of duty on or after January 1, 1992.

Section 3. Whereas two deaths in the line of duty have occurred since January 1, 1992, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **SB 151** is as follows:

SB 151, AN ACT relating to death benefits paid to survivors of police officers and firefighters and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, elected to office or employed by any county, airport board created pursuant to KRS Chapter 183 or city or by the state; "firefighter" means every paid firefighter or volunteer firefighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, or any county, city, fire district or any other organized fire department recognized, pursuant to KRS 17.250, as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. In the event death benefits are paid under KRS 61.316 to eligible survivors of a volunteer firefighter, then no benefits shall be paid to those survivors under this section.

(2) The spouse of any police officer, sheriff, deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, or firefighter whose death occurs ***on or after January 1, 1992,*** as a direct result of an act in the line of duty shall receive a lump-sum payment of ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~], ***if there are no surviving children,*** which sum shall be paid by the State Treasurer from the general expenditure fund of the State Treasury. ***If there are surviving children and a surviving spouse, the payment shall be apportioned equally among the surviving children and the spouse.*** If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the State Treasurer shall:

(a) Pay ***twenty*** [~~ten~~] thousand dollars ***($20,000)*** [~~($10,000)~~] to the surviving children; and

(b) Hold ***thirty*** [~~fifteen~~] thousand dollars ***($30,000)*** [~~($15,000)~~] in trust divided into equal accounts at appropriate interest rates for each surviving child until such child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The Commission on Fire Protection Personnel Standards and Education shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer firefighters, including but not limited to defining when a firefighter has died in line of duty.

(4) The Justice Cabinet shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including but not limited to defining when a police officer has died in line of duty.

(5) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or firefighter's retirement or benefit fund established by the state, county, or any municipality.

(6) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section, shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 2. KRS 95.860 is amended to read as follows:

(1) Upon death of a member due to occupational causes, regardless of length of service, his surviving widow shall be entitled immediately upon cessation of salary ***or annuity, as the case may be,*** to an annuity equal to fifty percent (50%) of the member's last rate of salary. This annuity shall be payable until she dies or remarries. No surviving widow shall receive an annuity of less than one hundred and fifty dollars ($150) per month. When Social Security benefits are increased the minimum shall be increased by a like percentage, provided the increase shall not exceed five percent (5%). In addition, if minor children, under age eighteen (18), survive the member, the widow shall receive ***twenty-five percent (25%)*** [~~on account of each child, ten percent (10%)~~] of the member's last rate of salary until ***the last*** [~~each~~] child attains age eighteen (18). The combined payments to a widow and minor children***, excluding cost-of-living increases,*** shall not exceed seventy-five percent (75%) of his final rate of salary.

(2) If a widow does not survive the member, or if she remarries, and minor children under age eighteen (18) exist, ***the children shall be entitled to the benefits provided in KRS 95.861(3)*** [~~each child shall be entitled to an annuity equal to fifteen percent (15%) of the member's last rate of salary until each child attains age eighteen (18), provided that the combined payments to such children shall not exceed fifty percent (50%) of the member's last rate of salary~~].

(3) If neither a widow nor minor children, eligible for benefits survive the member, each dependent parent shall be entitled to an annuity equal to twenty-five percent (25%) of the member's last rate of salary, or fifty percent (50%) to both parents.

(4) If a widow would receive from a combination of: (a) survivor benefits pursuant to this section, excluding benefits for minor children, and (b) workers' compensation benefits, excluding dependent children's allowances or payments for medical expenses or legal fees related to the workers' compensation claim, an amount greater than one hundred percent (100%) of the deceased member's last rate of salary, then the pension system survivor benefits shall be reduced to the point that the combined payments equal one hundred percent (100%) of the last rate of salary. The survivor benefit shall not be reduced, however, below an amount equal to two and one-half percent (2-1/2%) of average salary for each year of the deceased member's service. Any reduction in the survivor payment shall be based upon workers' compensation benefits applicable at the time the survivor payment is granted, and not upon subsequent increases in either benefit. If workers' compensation benefits are reduced at a subsequent time, the surviving spouse shall inform the board, and the board shall increase the survivor's benefit by the amount of the reductions, but not by more than an amount which would increase the survivor's benefit to fifty percent (50%) of last rate of salary***, excluding cost-of-living increases***. The board of trustees may pay estimated benefits to a surviving spouse, upon qualification for the benefits, based upon an estimate of workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the spouse's actual benefits shall be determined and the account corrected retroactive to the effective date of the survivor benefit. If workers' compensation benefits are paid in lump sums, the board shall reduce the survivor benefit on a monthly rather than a lump-sum basis. The amount of the monthly reduction shall be based upon the life expectancy of the survivor. The board may request the assistance of the general manager of Kentucky retirement systems to calculate the reduction in survivor benefits when lump-sum payments are involved, and the general manager shall provide such assistance upon request.

(5) A surviving child or parent receiving benefits pursuant to this section shall receive the same cost-of-living increase granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section shall receive the same increase an annuitant receives pursuant to KRS 95.859(3).

Section 3. KRS 95.861 is amended to read as follows:

(1) Upon death of a member occurring while in service, arising from any cause other than in the performance of duty, provided the member has had at least three (3) years of total service, his widow shall receive an annuity equal to one and one-half percent (1-1/2%) of average salary for each year of total service, credited to the member, subject to a maximum payment***, excluding cost-of-living increases,*** to the widow of fifty percent (50%). If the member has had at least ten (10) years of total service, the widow shall receive an annuity of no less than one hundred and fifty dollars ($150) per month, and when Social Security benefits are increased the minimum shall be increased by a like percentage, but the increase shall not exceed five percent (5%). Payment of the annuity shall be subject to the following conditions:

(a) The widow had been married to the member at least one (1) year prior to his death;

(b) The widow is at least forty-five (45) years of age, otherwise payment will be deferred until she attains such age, except that if she is or becomes totally disabled before age forty-five (45), or has a minor child or children by the member in her care under age eighteen (18), (including adopted children provided the proceedings for adoption were initiated at least one (1) year prior to death of member) payment of the widow's annuity will begin immediately together with an additional allowance on account of the child or children;

(c) The widow's annuity will terminate in any event when the widow remarries. The annuity of each child or children shall continue until each child attains age eighteen (18).

(2) If the widow has minor children under age of eighteen (18), the annuity to the widow shall be increased one-half (1/2) on account of the first child and one-fourth (1/4) on account of each additional child, subject to a maximum combined payment***, excluding cost-of-living increases,*** to the widow and children of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13).

(3) If the pensioner is not survived by a widow and there are minor children the following benefits shall be paid: (a) one (1) minor child, fifty percent (50%), (b) two (2) minor children, fifteen percent (15%) additional, (c) three (3) or more minor children, ten percent (10%) additional, subject to a maximum combined payment***, excluding cost-of-living increases,*** of seventy-five percent (75%) of the average salary as defined in KRS 95.851(13). The annuity of each child or children shall continue until each child attains age eighteen (18), or, in the case of a child regularly employed in full-time educational activities the age of twenty-three (23). The annuity payments shall be reduced in reverse order.

(4) These benefits shall also be payable upon death of the member while on retirement, provided marriage was in effect for at least one (1) year before ***death*** [~~retirement~~].

(5) A surviving child receiving benefits pursuant to this section shall receive the same cost-of-living increases granted to retirees pursuant to KRS 95.859(3). A surviving spouse who does not receive an increase pursuant to subsection (1) of this section shall receive the same increase an annuitant receives pursuant to KRS 95.859(3).

Section 4. It is the intent of the General Assembly, upon this Act becoming law, that the benefits specified within Section 1 of this Act shall apply to the survivors of police officers and firefighters killed in the line of duty on or after January 1, 1992.

Section 5. Whereas two deaths in the line of duty have occurred since January 1, 1992, an emergency is declared to exist and Sections 1 and 4 of this Act shall become effective upon its passage and approval by the Governor.

Section 6. Whereas the 1990 amendment to KRS 95.859 by 1990 Acts Chapter 118, Section 4, inadvertantly failed to include survivors among those who would be eligible for cost-of-living increases from police and firefighter retirement systems in cities of the second class, and the General Assembly wishes to correct this oversight, an emergency is declared to exist, the effect of Sections 2 and 3 of this Act shall be retroactive to September 1, 1989, and Sections 2 and 3 of this Act shall become effective upon its passage and approval by the Governor.

SB 215, AN ACT relating to municipal bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 424.360 is amended to read as follows:

No sale of general obligation bonds or revenue bonds, except bonds issued for the purpose of facilitating the construction, renovation or purchase of new or existing housing as set forth in KRS 58.125, of any governmental unit or political subdivision, or agency thereof, shall be made except upon newspaper advertisements for bids, published for the publication area constituted by the political subdivision or government unit and published to afford statewide notice. If the bonds are in principal amount of ***ten million dollars ($10,000,000)*** [~~seven hundred fifty thousand dollars ($750,000)~~] or more, an advertisement for bids shall also be published in a publication having general circulation among bond buyers.

The Committee on Tourism Development and Energy reported **HB 691**, with Committee Amendment attached thereto, **HB 914**, **SB 313**, **SB 323**, with Committee Substitute attached thereto, and **SB 335**, with

Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 691, AN ACT relating to highway signs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to ensure that the Commonwealth has erected a sufficient number of informational and directional signs to guide the traveling public to their destination in a safe and efficient manner. The purpose of this section is to establish a tourist-oriented directional sign program that provides tourists with business identification and directional information for businesses, services, activities, and historic sites and districts, the major portion of whose income or visitors are derived during the normal business season from motorists not residing in the immediate area of the business or activity.

(2) For purposes of this section "tourist-oriented directional signs" means signs that provide directional information to motorists not residing in the immediate area of the business or activity, and whose contents are limited to the identification of a business, service, activity, or historic site or district; a directional arrow; and the distance to the facility shown beneath the arrow. Under special conditions, the hours of operation may be added to the sign.

(3) The commissioner of the Department of Highways shall promulgate administrative regulations, pursuant to KRS Chapter 13A, to regulate the erection of tourist-oriented directional signs in conformity with the Manual on Uniform Traffic Control Services of the Federal Highway Administration, and amendments thereto. In promulgating administrative regulations, the commissioner shall consider, but not be limited to, the following:

(a) A definition of tourist-oriented businesses, services, and activities;

(b) Criteria for eligibility for signing;

(c) Provision for incorporating specific service signing into the tourist-oriented directional signs program;

(d) Provision for covering signs during off-seasons for businesses, services, and activities operated on a seasonal basis;

(e) Provisions for trailblazing to facilities that are not on the crossroad if the state elects to sign for those facilities;

(f) Maximum distances to eligible facilities;

(g) Provision for information centers or plazas when the number of eligible sign applicants exceeds the maximum permissible number of sign panel installations;

(h) Provision for limiting the number of signs when there are more applicants than the maximum number of signs permitted;

(i) Criteria for use at at-grade intersections on expressways;

(j) Provision for controlling or excluding those businesses which have illegal signs as defined by the Federal Highway Beautification Act of 1965, 23 U.S.C. 131 et seq.;

(k) Provision for states to charge fees to cover the cost of signing through a permit system;

(l) A definition of the conditions under which the time of operation is shown; and

(m) Provisions for determining if advance signing will be permitted.

(4) Businesses and activities that utilize tourist-oriented directional signs shall not be eligible to utilize any other signing along limited access highways.

The Committee Amendment No. 1 to **HB 691** is as follows:

Amend printed copy of **HB 691** as follows:

On page 3, line 17, by deleting the word "***not***"; and

On page 3, on line 18 after "***highways***" by deleting the "." and inserting in lieu thereof the following: "***; provided, however, if a business or activity has an illegal sign as defined by the Highway Beautification Act, a tourist-oriented directional sign will not be provided unless the illegal sign is removed.***"

HB 914, AN ACT relating to rural electric cooperatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 279 IS CREATED TO READ AS FOLLOWS:

(1) The board of directors of a rural electric cooperative may institute a program to collect funds for public infrastructure development within the service territory of the cooperative by rounding each member's monthly electric bill up to the next even dollar amount. Public infrastructure may include, but is not limited to, roads, sewers, signage, parks, playgrounds, public buildings, and service extensions of public facilities. A cooperative also may join with one (1) or more other cooperatives to institute a joint program under this section.

(2) Any program instituted under this section shall meet the following requirements:

(a) Participation in the program shall be voluntary and include a simple procedure whereby a member can elect not to participate. All customer members shall receive an explanation of the program, either through an insert in the bill mailings or otherwise, and be informed how to elect not to participate in the program. The bills of members who elect not to participate in the program shall not be rounded up unless the member later changes his election;

(b) All funds collected by rounding up bills shall be kept in a separate account and used solely for the purposes set out by the program. All disbursements from the fund shall be reported to the membership at least once each calendar year;

(c) The board shall include members, local government, and civic leaders in the process of determining the use of the funds. The board may establish a separate body for the purpose of disbursing funds, or may solicit advice from various parties; and

(d) Members of the cooperative also may nominate projects for consideration, and shall have the right to attend any meetings concerning the use of funds.

(3) Prior to instituting a program under this section, the board shall submit its proposal to the Public Service Commission for its approval. The commission shall approve a program if it determines that it meets the criteria in subsection (2) of this section, and if the commission finds that any administrative or other program costs which may be charged to ratepayers are reasonable.

SB 313, AN ACT relating to sales and use taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.470 is amended to read as follows:

There are excluded from the computation of the amount of taxes imposed by this chapter:

(1) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution or laws of the United States, or under the Constitution of this state;

(2) Gross receipts from sales of, and the storage, use, or other consumption in this state of:

(a) Nonreturnable and returnable containers when sold without the contents to persons who place the contents in the container and sell the contents together with the container; and

(b) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling;

As used in this section the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "nonreturnable containers";

(3) Gross receipts from the sale of, and the storage, use, or other consumption in this state of, tangible personal property used for the performance of a lump-sum, fixed-fee contract of public works executed prior to February 5, 1960;

(4) Gross receipts from occasional sales of tangible personal property and the storage, use, or other consumption in this state of tangible personal property, the transfer of which to the purchaser is an occasional sale;

(5) Gross receipts from sales of tangible personal property to a common carrier, shipped by the seller via the purchasing carrier under a bill of lading, whether the freight is paid in advance or the shipment is made freight charges collect, to a point outside this state and the property is actually transported to the out-of-state destination for use by the carrier in the conduct of its business as a common carrier;

(6) Gross receipts from sales of tangible personal property sold through coin-operated bulk vending machines, if ***the*** [~~such~~] sale amounts to twenty-five cents ($0.25) or less, ***if*** [~~provided~~] the retailer is primarily engaged in making ***the*** [~~such~~] sales and maintains records satisfactory to the cabinet. As used in this subsection, "bulk vending machine" means a vending machine containing unsorted merchandise which, upon insertion of a coin, dispenses the same in approximately equal portions, at random and without selection by the customer;

(7) Gross receipts from sales to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and gross receipts from sales to counties, cities, or special districts as defined in KRS 65.005. This exemption ***shall apply*** [~~applies~~] only to purchases of property or services for use solely in the government function. A purchaser not qualifying as a governmental agency or unit ***shall*** [~~is~~] not ***be*** entitled to the exemption even though ***the*** [~~such~~] purchaser may be the recipient of public funds or grants;

(8) (a) Gross receipts from the sale of sewer services, water, and fuel to Kentucky residents for use in heating, water heating, cooking, lighting, and other residential uses. As used in this subsection, "fuel" shall include, but not be limited to, natural gas, electricity, fuel oil, bottled gas, coal, coke, and wood. Determinations of eligibility for the exemption shall be made by the Revenue Cabinet;

(b) In making ***the*** [~~such~~] determinations of eligibility, the cabinet shall exempt from taxation all gross receipts derived from sales***:***

1. Classified as "residential" by a utility company as defined by applicable tariffs filed with and accepted by the Public Service Commission***;***

2. Classified as "residential" by a municipally owned electric distributor which purchases its power at wholesale from the Tennessee Valley Authority;

3. Classified as "residential" by the governing body of a municipally owned electric distributor which does not purchase its power from the Tennessee Valley Authority, if the "residential" classification is reasonably consistent with the definitions of "residential" contained in tariff filings accepted and approved by the Public Service Commission with respect to utilities which are subject to Public Service Commission regulation.

If [~~Where~~] the service is classified as residential, use other than for "residential" purposes by the customer ***shall*** [~~will~~] not negate the exemption;

(c) The exemption ***shall*** [~~does~~] not apply ***if*** [~~where~~] charges for sewer service, water, and fuel are billed to an owner or operator of a multi-unit residential rental facility or mobile home and recreational vehicle park other than residential classification; and

(d) The exemption ***shall apply*** [~~applies~~] also to residential property which may be held by legal or equitable title, by the entireties, jointly, in common, as a condominium, or indirectly by the stock ownership or membership representing the owner's or member's proprietary interest in a corporation owning a fee or a leasehold initially in excess of ninety-eight (98) years; and

(9) Any rate increase for school taxes and any other charges or surcharges added to the total amount of a residential telephone bill.

(10) Gross receipts from sales to an out-of-state agency, organization, or institution exempt from sales and use tax in its state of residence when that agency, organization, or institution gives proof of its tax-exempt status to the seller and the seller maintains a file of ***the*** [~~such~~] proof.

(11) Gross receipts derived from the sale of, and the storage, use, or other consumption in this state of, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale are not subject to the sales or use tax. ***The*** [~~Such~~] property shall be regarded as having been purchased for resale.

(a) Industrial processing includes refining, extraction of petroleum and natural gas, mining, quarrying, fabricating, and industrial assembling. As defined herein, tangible personal property to be used in the manufacturing or industrial processing of tangible personal property which will be for sale shall mean:

1. Materials which enter into and become an ingredient or component part of the manufactured product.

2. Other tangible personal property which is directly used in manufacturing or industrial processing, if ***the*** [~~such~~] property has a useful life of less than one (1) year. Specifically these items are categorized as follows:

a. Materials. This refers to the raw materials which become an ingredient or component part of supplies or industrial tools exempt under subdivisions b. and c. below.

b. Supplies. This category includes supplies such as lubricating and compounding oils, grease, machine waste, abrasives, chemicals, solvents, fluxes, anodes, filtering materials, fire brick, catalysts, dyes, refrigerants, explosives, etc. The supplies indicated above need not come in direct contact with a manufactured product to be exempt.

c. Industrial tools. This group is limited to hand tools such as jigs, dies, drills, cutters, rolls, reamers, chucks, saws, spray guns, etc., and to tools attached to a machine such as molds, grinding balls, grinding wheels, dies, bits, cutting blades, etc. Normally, for industrial tools to be considered directly used in manufacturing, they ***shall*** [~~must~~] come into direct contact with the product being manufactured.

3. Materials and supplies that are not reusable in the same manufacturing process at the completion of a single manufacturing cycle. A single manufacturing cycle ***shall be*** [~~is~~] considered to be the period elapsing from the time the raw materials enter into the manufacturing process until the finished product emerges at the end of the manufacturing process.

(b) It ***shall*** [~~will~~] be noted that in none of the three (3) categories is any exemption provided for repair parts. KRS 139.170 specifically holds replacement machinery ***shall*** [~~to~~] be taxable. Since replacement machinery is subject to tax, it necessarily follows that repair or replacement parts ***shall be*** [~~are~~] subject to tax. Repair parts ***shall*** [~~are~~] not ***be*** considered to be materials, supplies, or industrial tools directly used in manufacturing or industrial processing.

SB 323, AN ACT relating to telecommunications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The legislature finds and determines that:

(a) Competition and innovation have become commonplace in the provision of certain telecommunications services in Kentucky and the United States;

(b) Flexibility in the regulation of the rates of providers of telecommunications service is essential to the well-being of this state, its economy, and its citizens; and

(c) The public interest requires that the Public Service Commission be authorized and encouraged to formulate and adopt rules and policies that will permit the commission, in the exercise of its expertise, to regulate and control the provision of telecommunications services to the public in a changing environment, giving due regard to the interests of consumers, the public, the providers of the telecommunications services, and the continued availability of good telecommunications service.

(2) Notwithstanding any other statute to the contrary, the commission may, on its own motion or upon motion of a telecommunications utility, after notice and opportunity for comment, and hearing if requested, exempt to the extent it deems reasonable, services or products related to telecommunications utilities or persons who provide telecommunications services or products from any or all of the provisions of this chapter, or may adopt alternative requirements for establishing rates and charges for any service by a method other than that which is specified in this chapter, if the commission finds by clear and satisfactory evidence that it is in the public interest. No exemption shall be granted under this statute which preempts, without notice and without hearing, if requested, the existing rights and obligations of a local exchange company to serve a territory under a tariff approved by the Public Service Commission. Any party which seeks an exemption shall certify to the commission at the time of the filing that he has notified the affected local exchange company by registered mail of the filing of a petition for exemption, and of the right of the local exchange company to request a hearing within thirty (30) days of the notification.

(3) In determining public interest, the commission shall consider the following:

(a) The extent to which competing telecommunications services are available from competitive providers in the relevant market;

(b) The existing ability and willingness of competitive providers to make functionally equivalent or substitute services readily available;

(c) The number and size of competitive providers of service;

(d) The overall impact of the proposed regulatory change on the continued availability of existing services at just and reasonable rates;

(e) The existence of adequate safeguards to assure that rates for services regulated pursuant to this chapter do not subsidize exempted services;

(f) The impact of the proposed regulatory change upon efforts to promote universal availability of basic telecommunications services at affordable rates and upon the need of telecommunications companies subject to the jurisdiction of the commission to respond to competition;

(g) Whether the exercise of commission jurisdiction inhibits a regulated utility from competing with unregulated providers of functionally similar telecommunications services or products;

(h) The overall impact on customers of a proposed change to streamline regulatory treatment of small or nonprofit carriers; and

(i) Any other factors the commission may determine are in the public interest.

(4) When the commission exempts a telecommunications product or service from all of the provisions of this chapter, the investment, revenues, and expenses associated with the service or product shall not be considered by the commission in setting rates for the telecommunications company's regulated services. This provision shall only apply to telecommunication products or services which the commission exempts after the effective date of this section. Nothing herein shall prohibit the commission from having access to and from examining the books and records of the exempted product or service in order to determine compliance with the commission's rules respecting allocation of cost when setting rates for the telecommuncations company's regulated services.

(5) The Public Service Commission shall retain jurisdiction over persons and services which are exempted from regulation under this section, or for which alternative regulatory requirements have been established pursuant to this section. The commission, on its own motion, or upon the motion of any person, after notice and hearing, if requested, may vacate or modify any orders granting an exemption or establishing alternative requirements if it determines by clear and satisfactory evidence that the findings upon which the order was based are no longer valid, or that the exemption or modifications are no longer in the public interest.

(6) In granting or vacating exemptions, the Public Service Commission shall not be discriminatory or preferential but may treat services and utilities differently if reasonable and not detrimental to the public interest.

(7) The provisions of KRS 367.150(8) and 367.160, concerning the role of the Attorney General, shall apply to all proceedings under this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Revenues derived from nonexempted, regulated telecommunications services, whether essential or nonessential, shall not be used to subsidize or otherwise give advantage to any person providing an exempted service. The commission shall require a provider of any exempted service to keep separate accounts, to allocate cost in accordance with procedures established by the commission, and may require other acts that will assist the commission in enforcing this section. Any person requesting an exemption or providing a service exempted pursuant to Section 1 of this Act shall have the burden of proof to show compliance with this requirement.

(2) (a) Except as provided in subsection (2)(b) of this section, any telecommunications utility that willfully violates subsection (1) of this section shall be subject to a penalty no greater than the revenue requirement effect of moneys determined to have been misallocated in the violation. For the purpose of calculating the penalty under this section, the commission shall not use a period longer than five (5) years after the date it notifies a telecommunications utility of a suspected violation of subsection (1).

(b) A local exchange carrier with fewer than thirty-five thousand (35,000) access lines who willfully violates subsection (1) of this section shall be subject to the penalties prescribed in KRS 278.990(1).

The Committee Substitute to **SB 323** is as follows:

SB 323, AN ACT relating to telecommunications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The legislature finds and determines that:

(a) Competition and innovation have become commonplace in the provision of certain telecommunications services in Kentucky and the United States;

(b) Flexibility in the regulation of the rates of providers of telecommunications service is essential to the well-being of this state, its economy, and its citizens; and

(c) The public interest requires that the Public Service Commission be authorized and encouraged to formulate and adopt rules and policies that will permit the commission, in the exercise of its expertise,

to regulate and control the provision of telecommunications services to the public in a changing environment, giving due regard to the interests of consumers, the public, the providers of the telecommunications services, and the continued availability of good telecommunications service.

(2) Notwithstanding any other statute to the contrary, the commission may, on its own motion or upon motion of a telecommunications utility, after notice and opportunity for comment, and hearing if requested, exempt to the extent it deems reasonable, services or products related to telecommunications utilities or persons who provide telecommunications services or products from any or all of the provisions of this chapter, or may adopt alternative requirements for establishing rates and charges for any service by a method other than that which is specified in this chapter, if the commission finds by clear and satisfactory evidence that it is in the public interest. No exemption shall be granted under this statute which preempts, without notice and without hearing, if requested, the existing rights and obligations of a local exchange company to serve a territory under a tariff approved by the Public Service Commission. Any party which seeks an exemption shall certify to the commission at the time of the filing that he has notified the affected local exchange company by registered mail of the filing of a petition for exemption, and of the right of the local exchange company to request a hearing within thirty (30) days of the notification.

(3) In determining public interest, the commission shall consider the following:

(a) The extent to which competing telecommunications services are available from competitive providers in the relevant market;

(b) The existing ability and willingness of competitive providers to make functionally equivalent or substitute services readily available;

(c) The number and size of competitive providers of service;

(d) The overall impact of the proposed regulatory change on the continued availability of existing services at just and reasonable rates;

(e) The existence of adequate safeguards to assure that rates for services regulated pursuant to this chapter do not subsidize exempted services;

(f) The impact of the proposed regulatory change upon efforts to promote universal availability of basic telecommunications services at affordable rates and upon the need of telecommunications companies subject to the jurisdiction of the commission to respond to competition;

(g) Whether the exercise of commission jurisdiction inhibits a regulated utility from competing with unregulated providers of functionally similar telecommunications services or products;

(h) The overall impact on customers of a proposed change to streamline regulatory treatment of small or nonprofit carriers; and

(i) Any other factors the commission may determine are in the public interest.

(4) When the commission exempts a telecommunications product or service from all of the provisions of this chapter, the investment, revenues, and expenses associated with the service or product shall not be considered by the commission in setting rates for the telecommunications company's regulated services. This provision shall only apply to telecommunication products or services which the commission exempts after the effective date of this section. Nothing herein shall prohibit the commission from having access to and from examining the books and records of the exempted product or service in order to determine compliance with the commission's rules respecting allocation of cost when setting rates for the telecommuncations company's regulated services.

(5) The Public Service Commission shall retain jurisdiction over persons and services which are exempted from regulation under this section, or for which alternative regulatory requirements have been established pursuant to this section. The commission, on its own motion, or upon the motion of any person, after notice and hearing, if requested, may vacate or modify any orders granting an exemption or establishing alternative requirements if it determines by clear and satisfactory evidence that the findings upon which the order was based are no longer valid, or that the exemption or modifications are no longer in the public interest.

(6) In granting or vacating exemptions, the Public Service Commission shall not be discriminatory or preferential but may treat services and utilities differently if reasonable and not detrimental to the public interest.

(7) The provisions of KRS 367.150(8) and 367.160, concerning the role of the Attorney General, shall apply to all proceedings under this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) Revenues derived from nonexempted, regulated telecommunications services, whether essential or nonessential, shall not be used to subsidize or otherwise give advantage to any person providing an exempted service. The commission shall require a provider of any exempted service to keep separate accounts, to allocate cost in accordance with procedures established by the commission, and may require other acts that will assist the commission in enforcing this section. Any person requesting an exemption or providing a service exempted pursuant to Section 1 of this Act shall have the burden of proof to show compliance with this requirement.

(2) (a) Except as provided in subsection (2)(b) of this section, any telecommunications utility that willfully violates subsection (1) of this section shall be subject to a penalty no greater than the revenue requirement effect of moneys determined to have been misallocated in the violation. For the purpose of calculating the penalty under this section, the commission shall not use a period longer than five (5) years.

(b) A local exchange carrier with fewer than thirty-five thousand (35,000) access lines who willfully violates subsection (1) of this section shall be subject to the penalties prescribed in KRS 278.990(1).

SB 335, AN ACT relating to utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of justifying the reasonableness of a proposed general increase in rates, a utility may utilize either an historical test period of twelve (12) consecutive calendar months, or a forward-looking test period corresponding to the first twelve (12) consecutive calendar months the proposed increase would be in effect after the maximum suspension provided in KRS 278.190(2). The period so utilized shall be the test period upon which just and reasonable rates shall be determined by the commission.

(2) (a) Any application utilizing a forward-looking test period shall include a base period to be filed with the application, which begins not more than nine (9) months prior to the date of filing, consisting of not less than six (6) months of actual historical data and not more than six (6) months of estimated data at the time of filing.

(b) Actual results for the estimated months of the base period shall be filed no later than forty-five (45) days after the last day of the base period.

Section 2. KRS 278.190 is amended to read as follows:

(1) Whenever any utility files with the commission any schedule stating new rates, the commission may, upon its own motion, or upon complaint as provided in KRS 278.260, and upon reasonable notice, hold a hearing concerning the reasonableness of the new rates.

(2) Pending ***the*** [~~such~~] hearing and the decision thereon, and after notice to the utility, the commission may, at any time before ***the*** [~~said~~] schedule becomes effective, suspend the operation of ***the*** [~~said~~] schedule and defer the use of ***the*** [~~such~~] rate, charge, classification or service, but not for a longer period than five (5) months beyond the time when it would otherwise go into effect ***if an historical test period is used, or longer than six (6) months if a forward-looking test period is used, pursuant to Section 1 of this Act***; and after such hearing, either completed before or after the rate, charge, classification or service goes into effect, the commission may make ***those*** [~~such~~] orders with reference thereto as it deems proper in the matter. If the proceeding has not been concluded and an order made at the expiration of [~~such~~] five (5) months***, or six (6) months, as appropriate,*** the utility may place the proposed change of rate, charge, classification or service in effect at the end of ***that*** [~~such~~] period after notifying the commission, in writing, of its intention

so to do. Where increased rates or charges are thus made effective, the commission may, by order, require the interested utility or utilities to maintain their records in ***a*** [~~such~~] manner as will enable them, or the commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered, and upon completion of the hearing and decision may, by further order, require such utility or utilities to refund to the persons in whose behalf ***the*** [~~such~~] amounts were paid ***that*** [~~such~~] portion of ***the*** [~~such~~] increased rates or charges as by its decision shall be found unreasonable. Provided, however, if the commission, at any time, during ***the*** [~~said five (5) months'~~] suspension period, finds that the company's credit or operations will be materially impaired or damaged by the failure to permit ***the*** [~~said~~] rates to become effective during ***the*** [~~said five (5) months'~~] period, ***the*** [~~said~~] commission may, after any hearing or hearings, permit all or a portion of ***the*** [~~said~~] rates to become effective under [~~such~~] terms and conditions as the commission may, by order, prescribe.

(3) At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

(4) ***If*** [~~In the event~~] the commission, by order, directs any utility to make a refund, as hereinabove provided, of all or any portion of ***the*** [~~such~~] increased rates or charges, the utility shall make the ***refund*** [~~same~~] within sixty (60) days after a final determination of the proceeding by an order of the court or commission with or without interest in the discretion of the commission. If the utility fails to make ***the*** [~~such~~] refund within sixty (60) days after ***the*** [~~such~~] final determination, any party entitled to ***a*** [~~such~~] refund may, after ten (10) days' written demand, bring an action [~~therefor~~] in any court of competent jurisdiction of this state, and may recover, in addition to the amount of the refund due, legal interest, court costs and reasonable attorney's fees. No such action may be maintained unless instituted within one (1) year after ***the*** [~~such~~] final determination. Any number of persons entitled to [~~such~~] refunds may join in as plaintiffs in a single action and the court shall render a judgment severally for each plaintiff as his interest may appear.

The Committee Substitute to SB 335 is as follows:

SB 335, AN ACT relating to utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of justifying the reasonableness of a proposed general increase in rates, the commission shall allow a utility to utilize either an historical test period of twelve (12) consecutive calendar months, or a forward-looking test period corresponding to the first twelve (12) consecutive calendar months the proposed increase would be in effect after the maximum suspension provided in KRS 278.190(2).

(2) (a) Any application utilizing a forward-looking test period shall include a base period to be filed with the application, which begins not more than nine (9) months prior to the date of filing, consisting of not less than six (6) months of actual historical data and not more than six (6) months of estimated data at the time of filing.

(b) Actual results for the estimated months of the base period shall be filed no later than forty-five (45) days after the last day of the base period.

(c) Upon the filing of an application for a proposed increase in rates based on either a historical or a forward-looking test period, any intervening party in opposition to such application shall have the right to examine all data, including individual invoices, which comprise the actual expenditures of the utility incurred for ratemaking purposes for the preceding twelve (12) month period immediately prior to the filing date.

Section 2. KRS 278.190 is amended to read as follows:

(1) Whenever any utility files with the commission any schedule stating new rates, the commission may, upon its own motion, or upon complaint as provided in KRS 278.260, and upon reasonable notice, hold a hearing concerning the reasonableness of the new rates.

(2) Pending ***the*** [~~such~~] hearing and the decision thereon, and after notice to the utility, the commission may, at any time before ***the*** [~~said~~] schedule becomes effective, suspend the operation of ***the*** [~~said~~] schedule and defer the use of ***the*** [~~such~~] rate, charge, classification or service, but not for a longer period than five (5) months beyond the time when it would otherwise go into effect ***if an historical test period is used, or longer than six (6) months if a forward-looking test period is used, pursuant to Section 1 of this Act***; and after such hearing, either completed before or after the rate, charge, classification or service goes into effect, the commission may make ***those*** [~~such~~] orders with reference thereto as it deems proper in the matter. If the proceeding has not been concluded and an order made at the expiration of [~~such~~] five (5) months***, or six (6) months, as appropriate,*** the utility may place the proposed change of rate, charge, classification or service in effect at the end of ***that*** [~~such~~] period after notifying the commission, in writing, of its intention so to do. Where increased rates or charges are thus made effective, the commission may, by order, require the interested utility or utilities to maintain their records in ***a*** [~~such~~] manner as will enable them, or the commission, or any of its customers, to determine the amounts to be refunded and to whom due in the event a refund is ordered, and upon completion of the hearing and decision may, by further order, require such utility or utilities to refund to the persons in whose behalf ***the*** [~~such~~] amounts were paid ***that*** [~~such~~] portion of ***the*** [~~such~~] increased rates or charges as by its decision shall be found unreasonable. Provided, however, if the commission, at any time, during ***the*** [~~said five (5) months'~~] suspension period, finds that the company's credit or operations will be materially impaired or damaged by the failure to permit ***the*** [~~said~~] rates to become effective during ***the*** [~~said five (5) months'~~] period, ***the*** [~~said~~] commission may, after any hearing or hearings, permit all or a portion of ***the*** [~~said~~] rates to become effective under [~~such~~] terms and conditions as the commission may, by order, prescribe.

(3) At any hearing involving the rate or charge sought to be increased, the burden of proof to show that the increased rate or charge is just and reasonable shall be upon the utility and the commission shall give to the hearing and decision of such questions preference over other questions pending before it and decide the same as speedily as possible, and in any event not later than ten (10) months after the filing of such schedules.

(4) ***If*** [~~In the event~~] the commission, by order, directs any utility to make a refund, as hereinabove provided, of all or any portion of ***the*** [~~such~~] increased rates or charges, the utility shall make the ***refund*** [~~same~~] within sixty (60) days after a final determination of the proceeding by an order of the court or commission with or without interest in the discretion of the commission. If the utility fails to make ***the*** [~~such~~] refund within sixty (60) days after ***the*** [~~such~~] final determination, any party entitled to ***a*** [~~such~~] refund may, after ten (10) days' written demand, bring an action [~~therefor~~] in any court of competent jurisdiction of this state, and may recover, in addition to the amount of the refund due, legal interest, court costs and reasonable attorney's fees. No such action may be maintained unless instituted within one (1) year after ***the*** [~~such~~] final determination. Any number of persons entitled to [~~such~~] refunds may join in as plaintiffs in a single action and the court shall render a judgment severally for each plaintiff as his interest may appear.

The Committee on Labor and Industry reported **HB 930**, with Committee Substitute attached thereto, and **HB 937**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 930, AN ACT relating to family care leave.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

It shall be an unlawful employment practice unless based upon a bona fide occupational qualification:

(1) For any employer, because of the pregnancy, childbirth, or related medical condition of any female employee, to refuse to promote her, or to refuse to select her for a training program leading to promotion, provided she is able to complete the training program at least three (3) months prior to the anticipated date of departure for her pregnancy leave, or to discharge her from employment or from a training program leading to promotion, or to discriminate against her in compensation or in terms, conditions, or privileges of employment.

(2) For any employer to refuse to allow a female employee affected by pregnancy, childbirth or related medical conditions either:

(a) To receive the same benefits or privileges of employment granted by that employer to other persons not so affected who are similar in their ability or inability to work, including the taking of disability or sick leave or any other accrued leave which is made available by the employer to temporarily disabled employees. For purposes of this section, pregnancy, childbirth, and related medical conditions are treated as any other temporary disability. However, no employer shall be required to provide a female employee disability leave on account of normal pregnancy, childbirth, or related medical condition for a period exceeding six (6) weeks. Nothing in this section shall be construed to require an employer to provide his or her employees with health insurance coverage for the medical costs of pregnancy, childbirth, or related medical conditions. The inclusion in any such health insurance coverage of any provisions or coverage relating to medical costs of pregnancy, childbirth, or related medical conditions shall not be construed to require the inclusion of any other provisions or coverage, nor shall coverage of any related medical conditions be required by virtue of coverage of any medical costs of pregnancy, childbirth, or other related medical conditions; or

(b) To take a leave on account of pregnancy for a reasonable period of time, provided the period shall not exceed four (4) months. The employee shall be entitled to utilize any accrued vacation leave during this period of time. Reasonable period of time means that period during which the female employee is disabled on account of pregnancy, childbirth, or related medical conditions. Nothing in this paragraph shall be construed to limit the provisions of paragraph (a) of subsection (2) of this section. An employer may require any employee who plans to take a leave pursuant to this subsection to give the employer reasonable notice of the date the leave shall commence and the estimated duration of the leave.

(3) (a) For an employer who has a policy, practice, or collective bargaining agreement requiring or authorizing the transfer of temporarily disabled employees to less strenuous or hazardous positions for the duration of the disability to refuse to transfer a pregnant female employee who so requests; or

(b) For any employer to refuse to temporarily transfer a pregnant female employee to a less strenuous or hazardous position for the duration of her pregnancy if she so requests, with the advice of her physician, where such transfer can be reasonably accommodated. However, no employer shall be required by this section to create additional employment which the employer would not otherwise have created, nor shall the employer be required to discharge any employee, transfer any employee with more seniority, or promote any employee who is not qualified to perform the job.

(4) This section shall not be construed to affect any other provision of law relating to sex discrimination or pregnancy, or in any way to diminish the coverage of pregnancy, childbirth, or medical conditions related to pregnancy or childbirth under any other provisions of law.

SECTION 2. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

For the purpose of Sections 2 to 11 of this Act:

(1) "Child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is:

(a) Under 18 years of age; or

(b) An adult dependent child.

(2) "Employer" means any person who directly employs fifty (50) or more persons to perform services for a wage or salary.

(3) "Family care leave" means either of the following:

(a) Leave for reason of the birth of a child of the employee, the placement of a child with an employee in connection with the adoption of the child by the employee, or the serious illness of a child of the employee; or

(b) Leave to care for a parent or a spouse who has a serious health condition.

(4) "Employment in the same or a comparable position" means employment in a position that has the same or similar duties and pay which can be performed at the same or similar geographic location as the position held prior to the leave.

(5) "Health care provider" means an individual licensed and practicing as a physician or osteopath pursuant to KRS Chapter 311.

(6) "Parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.

(7) "Serious health condition" means an illness, injury, impairment, or physical or mental condition which warrants the participation of a family member to provide care during a period of the treatment or supervision and involves either of the following:

(a) Inpatient care in a hospital, hospice, or residential health care facility; or

(b) Continuing treatment or continuing supervision by a health care provider.

SECTION 3. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

It shall be an unlawful employment practice for any employer of fifty (50) or more employees to refuse to grant a request by any employee with more than one (1) year of continuous service with the employer, who meets all requirements of this section, and who is eligible for other benefits, to take up to a total of four (4) months in a twenty-four (24) month period for family care leave. Family care leave requested pursuant to this subsection shall not be deemed to have been granted unless the employer provides the employee, upon granting the leave request, a guarantee of employment in the same or a comparable position upon the termination of the leave.

SECTION 4. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

An employer shall not be required to pay an employee for any family care leave taken pursuant to Section 3 of this Act, except that the employee taking the leave may elect, or an employer may require the employee, to substitute for family care leave any of the employee's accrued vacation leave or other accrued time off during this period, or any other paid or unpaid time off negotiated with the employer. However, an employee shall not use sick leave during the period of the family care leave unless mutually agreed to by the employer and the employee.

SECTION 5. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) Any employee taking leave pursuant to Section 3 of this Act shall continue to be entitled to participate in health plans, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions that apply to an unpaid leave taken for any purpose other than family care.

(2) In the absence of these conditions, an employee shall continue to be entitled to participate in these plans, and in the case of employee health benefit plans, including group medical, life, short-term or long-term disability or accident insurance, or other similar plans, the employer may, at his discretion, require the employee to pay premiums at the group rate during the period of leave not covered by any accrued vacation leave, or other accrued time off, or any other paid or unpaid time off negotiated with the employer, as a condition of continued coverage during the leave period. However, the nonpayment of premiums by an employee shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan.

(3) For purposes of pension and retirement plans, an employer shall not be required to make plan payments for an employee during the leave period, and the leave period shall not be required to be counted for purposes of time accrued under the plan. However, an employee covered by a pension plan may continue to make contributions in accordance with the terms of the plan during the period of the leave.

SECTION 6. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

During a family care leave period, the employee shall retain employee status with the employer, and the leave shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. An employee returning from leave shall return with no less seniority than the employee had when the leave commenced, for purposes of layoff, recall, promotion, job assignment, and seniority-related benefits including, but not limited to, vacation.

SECTION 7. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) If the employee's need for family care leave pursuant to Section 3 of this Act is foreseeable, the employee shall provide the employer with reasonable advance notice of the need for the leave.

(2) If the employee's need for family care leave pursuant to Section 3 of this Act is foreseeable due to a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption to the operations of the employer, subject to the approval of the health care provider of the individual requiring the treatment or supervision.

SECTION 8. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) An employer may require that an employee's request for leave to care for a child, a spouse, or a parent who has a serious health condition be supported by a certification issued by the health care provider of the individual requiring care. That certification shall be sufficient if it includes all of the following:

(a) The date on which the serious health condition commenced;

(b) The probable duration of the condition;

(c) An estimate of the amount of time that the health care provider believes the employee needs to care for the individual requiring the care; and

(d) A statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the individual requiring care.

(2) Upon expiration of the time estimated by the health care provider, the employer may require the employee to obtain recertification in accordance with the procedure provided in subsection (1) of this section, if additional leave is required.

SECTION 9. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

It shall be an unlawful employment practice for an employer to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against, any individual because of any of the following:

(1) An individual's exercise of the right to family care leave provided by Section 3 of this Act;

(2) An individual's giving information or testimony as to his own family care leave, or another person's family care leave, in any inquiry or proceeding related to rights guaranteed under Sections 2 to 11 of this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 2 to 11 of this Act shall not be construed to require any changes in existing collective bargaining agreements during the life of the contract, or until January 1, 1993, whichever occurs first.

(2) The provisions of Section 2 to 11 of this Act shall be construed as separate and distinct from those of Section 1 of this Act. However, leave taken pursuant to Section 2 to 11 of this Act shall be no more than one (1) month when used in conjunction with the maximum leave under Section 1 of this Act, unless the employer and employee agree otherwise.

(3) The provisions of Sections 2 to 11 of this Act shall not entitle the employee to receive disability benefits under KRS 342.0011.

(4) Family care leave provided for pursuant to Section 2 to 11 of this Act may be taken in one (1) or more periods but shall not exceed a total of four (4) months within a twenty-four (24) month period from the date the leave commenced unless otherwise agreed to by the employee and the employer.

SECTION 11. A NEW SECTION OF KRS CHAPTER 337 IS CREATED TO READ AS FOLLOWS:

(1) An employer shall not be required to grant an employee family care leave which would allow the employee and the other parent of the child family care leave totalling more than the amount specified in Section 3 of this Act, nor to grant an employee family care leave for any period of time in which the child's other parent is also taking family care leave from employment or is unemployed.

(2) Notwithstanding Section 3 of this Act, an employer may refuse to grant a request for family care leave made by an employee if this refusal is necessary to prevent undue hardship to the employer's operations.

(3) Notwithstanding Section 3 of this Act, an employer may refuse to grant a request for family care leave made by a salaried employee who, on the date the request for family care leave is made, is either one of the five highest paid employees, or is among the top ten percent (10%) of the employees in terms of gross salary, whichever group encompasses the greater number of persons, employed by the employer at the same location.

Section 12. The following KRS section is repealed:

337.015 Leave of absence for employee to receive adoptive child.

The Committee Substitute to **HB 930** is as follows:

HB 930, AN ACT relating to family care leave.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.015 is amended to read as follows:

Upon receiving written request by an employee, every employer shall grant reasonable personal leave not to exceed six (6) weeks when the reception of an adoptive child under the age of seven (7) ***by the employee or the birth of the employee's child*** is the reason for ***the*** [~~such~~] request.

HB 937, AN ACT relating to nonresident contractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.010 is amended to read as follows:

As used in this chapter, unless otherwise provided:

(1) "Assembly occupancy" means the occupancy or use of a building or structure or any portion thereof by a gathering of persons for civic, political, travel, religious, social or recreational purposes, including among others:

(a) Armories;

(b) Assembly halls;

(c) Auditoriums;

(d) Bowling alleys;

(e) Broadcasting studios;

(f) Chapels;

(g) Churches;

(h) Clubrooms;

(i) Community buildings;

(j) Courthouses;

(k) Dance halls;

(l) Exhibition rooms;

(m) Gymnasiums;

(n) Hotels;

(o) Lecture rooms;

(p) Lodge rooms;

(q) Motels;

(r) Motion picture theaters;

(s) Museums;

(t) Night clubs;

(u) Opera houses;

(v) Passenger stations;

(w) Pool rooms;

(x) Recreation areas;

(y) Restaurants;

(z) Skating rinks;

(aa) Television studios;

(bb) Theaters.

(2) "Attic" means the space between the ceiling beams of the top habitable story and the roof rafters.

(3) "Basement" means that portion of a building the average height of which is at least half below grade, which is ordinarily used for purposes such as storage, laundry facilities, household tool shops, and installation and operation of heating, cooling, and ventilating facilities, but which is not ordinarily used for purposes of general household habitation.

(4) "Building" means any combination of materials, whether portable or fixed, which comprises a structure or nonmine underground area affording facilities or shelter for any human occupancy, whether infrequent or regular. The word "building" shall be construed wherever used ***in this chapter*** [~~herein~~] as if followed by the words "or part or parts thereof and all equipment therein" unless the context clearly requires a different meaning. "Building" shall also mean swimming pools constructed below grade on site, but not swimming pools assembled above grade on site. "Building" shall not mean a mobile home, or a farm dwelling or other farm buildings and structures incident to the operation and maintenance of the farm if such farm structures are located outside the boundary of a municipality and are not used in the business of retail trade or used as a place of regular employment for ten (10) or more people or structures used in the storage or processing of timber products. This chapter shall not apply to any single family dwelling except those sold or constructed under a trade or brand name.

(5) Any city, county, or urban-county government of the Commonwealth may extend, by ordinance, the application of this chapter to those single family dwellings exempted under subsection (4) of this section, but may not enforce any building code other than the Uniform State Building Code on such dwellings.

(6) Nothing in this chapter shall be construed to exempt single family dwellings from those provisions of the Uniform State Building Code that relate to the National Electric Code and the State Plumbing Code.

(7) "Business occupancy" means the occupancy or use of a building or structure or any portion thereof for the transaction of business, the rendering or receiving of professional services, or the displaying, selling or buying of goods, wares, or merchandise, or the housing of vehicles of transportation, except where occupancy is of high hazard, including among others:

(a) Banks;

(b) Barber shops;

(c) Beauty parlors;

(d) Department stores;

(e) Garages;

(f) Markets;

(g) Service stations;

(h) Offices;

(i) Stores;

(j) Radio stations;

(k) Telephone exchanges;

(l) Television stations.

(8) "Certified building inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state building inspector within the Commonwealth.

(9) "Certified plans and specifications inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a city, county, or state plans and specifications inspector within the Commonwealth.

(10) "Certified plumbing inspector" means a person who has been certified by the department as having successfully completed the test requirements provided by KRS 198B.090 and 318.140, or 318.090 to practice as a city, county, or state plumbing inspector within the Commonwealth.

(11) "Commissioner" means the commissioner of housing, buildings and construction.

(12) "Construction" means the erection, fabrication, reconstruction, substantial alteration or conversion of a building, or the installation of equipment therein, but shall not include the ordinary repair of a building or structure.

(13) "Department" means the Department of Housing, Buildings and Construction.

(14) "Educational occupancy" means the occupancy or use of a building or structure or any portion thereof by persons assembled for the purpose of learning or of receiving educational instruction, including among others:

(a) Academies;

(b) Care centers;

(c) Colleges;

(d) Kindergartens;

(e) Libraries;

(f) Pre-schools;

(g) Relocatable classroom units;

(h) Schools;

(i) Seminaries;

(j) Universities.

(15) "Equipment" means facilities or installations, including but not limited to, heating, electrical, ventilating, air conditioning, and refrigerating facilities or installations.

(16) "High hazard occupancy" means the occupancy or use of a building or structure or any portion thereof that involves highly combustible, highly flammable or explosive materials or which has inherent characteristics that constitute a special fire hazard, including among others:

(a) Aluminum powder factories;

(b) Charging or filling stations;

(c) Distilleries;

(d) Dry cleaning plants;

(e) Dry dyeing plants;

(f) Explosive-manufacture, sale or storage;

(g) Flour and feed mills;

(h) Gasoline bulk plants;

(i) Grain elevators;

(j) Lacquer factories;

(k) Liquefied petroleum gas;

(l) Mattress factories;

(m) Paint factories;

(n) Pyroxylin-factories, or warehouses;

(o) Rubber factories.

(17) "Industrial occupancy" means the occupancy or use of a building structure or any portion thereof for assembling, fabricating, finishing, manufacturing, packaging, or processing operations, except for occupancies of high hazard, including among others:

(a) Assembly plants;

(b) Creameries;

(c) Electrical substations;

(d) Factories;

(e) Ice plants;

(f) Laboratories;

(g) Laundries;

(h) Manufacturing plants;

(i) Mills;

(j) Power plants;

(k) Processing plants;

(l) Pumping stations;

(m) Repair garages;

(n) Smokehouses;

(o) Workshops.

(18) "Industrialized building system" means any structure or component thereof which is wholly or in substantial part fabricated in an off-site manufacturing facility for installation or assembly on a permanent foundation at the building site.

(19) "Institutional occupancy" means the occupancy or use of a building or structure or any portion thereof by persons harbored or detained to receive medical, charitable, or other care or treatment, or by persons involuntarily detained, including among others:

(a) Asylums;

(b) Homes for the aged;

(c) Hospitals;

(d) Houses of correction;

(e) Infirmaries;

(f) Jails;

(g) Nursing homes;

(h) Orphanages;

(i) Penal institutions;

(j) Reformatories;

(k) Sanitariums;

(l) Nurseries.

(20) "Mobile home" means mobile home as defined in KRS 227.550(9).

(21) "Ordinary repair" means any nonstructural reconstruction or renewal of any part of an existing building for the purpose of its maintenance, or decoration, and shall include, but not be limited to, the replacement or installation of nonstructural components of the building such as roofing, siding, windows, storm windows, insulation, drywall or lath and plaster, or any other replacement, in kind, that does not alter the structural integrity, alter the occupancy or use of the building, or affect, by rearrangement, exitways and means of egress; but shall not include additions to, or alteration of, or relocation of any standpipe, water supply, sewer, drainage, gas, soil, waste, vent or similar piping, electric wiring, or mechanical equipment including furnaces and hot water heaters or other work affecting public health or safety.

(22) "Story" means that part of a building comprised between a floor and the floor or roof next above which is not a basement or an attic.

(23) "Physically handicapped person" means a person confined to a wheelchair; a person who uses braces or crutches; a person who because of the loss of a foot or leg or because of an arthritic, spastic, pulmonary, or cardiac condition, walks with difficulty or insecurity; a person who suffers from a faulty coordination or palsy; a person who is blind or whose sight is so impaired that, functioning in a public area, he is insecure or exposed to danger; a person whose hearing is so impaired that he is unable to hear warning signals; and a person whose mobility, flexibility, coordination, and perceptiveness are significantly reduced by aging.

(24) "Facility for physically handicapped persons" means any convenience or device which facilitates the health, safety, or comfort of a handicapped person, including, but not limited to, ramps, handrails, elevators, and doors.

(25) (a) "Contracting" means undertaking, for a fixed price, fee, commission, or gain of whatever nature, to construct, erect, alter, repair, supervise, superintend, oversee, direct, or in any manner assume charge of the construction, erection, alteration, or repair of part or all of any structure, or private work or utility of any nature or character whatsoever, including railroads, municipal works, water supply systems, sewerage and drainage systems, levies, locks and dams, canals, industrial works, or any highway, road, bridge, or similar structure or project, where the cost of the completed work, or of different projects under a single contract, equals or exceeds twenty-five thousand dollars ($25,000). This definition does not include licensed architects or engineers whose only financial interest in the project shall be the professional fee for preparing plans and specifications, supervision, and normal and ordinary engineering services, and they shall not be liable for any other fees, licenses, or assessments other than those provided by the laws of the Commonwealth of Kentucky. When an architect or engineer receives an additional fee for employment or direction of labor, he shall be considered a contractor within the scope of this chapter. The purchase of materials alone or subletting separate contracts for various phases or aspects of the construction by an architect or engineer on behalf of the owner shall be considered normal architectural and engineering services. However, the supervision, superintendence, overseeing, directing, or in any manner assuming charge of that purchase or subletting shall be considered "contracting," whether provided by a contractor or a construction manager.

(b) "Contracting" does not include:

1. Subcontracting, unless a subcontract involves:

a. Twenty-five thousand dollars ($25,000) or more of electrical work;

b. Twenty-five thousand dollars ($25,000) or more of plumbing work; or

c. Twenty-five thousand dollars ($25,000) or more of heating, ventilating, or air conditioning work; or

2. Undertaking in one's county of residence solely to construct residences or dwellings on private property for the purpose of resale, if the county has a population of sixty thousand (60,000) or less according to the United States census of 1990 or any subsequent federal census.

(26) "Contractor" means any person, firm, or corporation who engages or offers to engage in contracting.

(27) "Kentucky contractor" means any individual, partnership, association, or corporation which maintains a bona fide place of business within the Commonwealth of Kentucky, and in the case of corporations is duly qualified to do business and is in good standing under the laws of the Commonwealth of Kentucky and who engages or offers to engage in contracting.

(28) "Nonresident contractor" means a contracting firm which does not meet the definition of a "Kentucky contractor" as provided in subsection (27) of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Each nonresident contractor who does contracting in the Commonwealth of Kentucky shall be required to register with the department.

(2) Each nonresident contractor shall be required to pay a registration fee to the department which shall be equal to any contractor licensing and registration fees which a Kentucky contractor is required to pay when being registered or licensed in the state of the nonresident contractor. Fees shall be reduced by the dollar amount of reciprocity granted Kentucky's contractors by a nonresident contractor's state.

(3) The department shall deposit all registration fees it collects as a result of its administration of subsection (2) of this section into a special trust and agency account of the department, with those funds designated specifically for the administration of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Any nonresident contractor as defined in KRS 198B.010(28) who engages or offers to engage in contracting in Kentucky without being registered as required by Section 2 of this Act shall be guilty of a Class A misdemeanor.

(2) Any nonresident contractor who engages or offers to engage in contracting without registration as required by Section 2 of this Act shall be ineligible to apply for any subsequent registration until (6) months after a violation has occurred.

(3) Any Kentucky person, firm, or corporation who accepts a bid from an unregistered, nonresident contractor in an amount exceeding twenty-five thousand dollars ($25,000) shall be guilty of a Class A misdemeanor.

The Committee Substitute to **HB 937** is as follows:

HB 937, AN ACT relating to nonresident contractors.

WHEREAS, a controversy exists in the Commonwealth about the proper, legal, and fair relationship that should be afforded nonresident contractors compared to in-state contractors; and

WHEREAS, there is a feeling on the part of many Kentucky contractors that they are treated unfairly when they seek registration certification, licensure, and work generally in neighboring and other states; and

WHEREAS, in-state contractors and nonresident contractors play an important part in Kentucky's economy; and

WHEREAS, it is important to collect factual, accurate data on this issue and to give all sides a fair opportunity to be heard before proposing substantial legislation;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the 1992-93 Interim Joint Committee on Labor and Industry of the Legislative Research Commission shall be authorized and directed to study contracting by nonresident firms in Kentucky. The Interim Joint Committee is charged with the responsibility to make legislative recommendations based on its collection and study of the following data:

(1) The size and scope of contracting by nonresident firms in the Commonwealth;

(2) The kinds of legal relationships which currently exist regarding Kentucky contractors when working in other states.

(3) The possible consequences, intended and unintended, of enacting legislation similar to the House Bill 937 as proposed during the 1992 Regular Session of the Kentucky General Assembly; and

(4) The need, if any, for possible statutory changes in the Kentucky Revised Statutes related to nonresident contractors.

Section 2. The study shall begin not later than August 1, 1992, and the report and recommendations shall be submitted to the Legislative Research Commission no later than July 1, 1993.

Section 3. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations of other research responsibilities of the Commission.

Calendar

HB 532, HB 880, HCR 171, SB 81, HB 850, SB 108, SB 139, SB 212, SB 213, SB 214, HB 852, SB 3, SB 145, SB 206, SB 269, HB 653, HB 780, HCR 159, HCR 167, SB 205, HB 831, HB 853, HB 902, SB 250, HB 39, HB 242, HB 291, HB 609, HB 866, HB 896, HB 943, SB 80, SB 116, SB 160, SB 187, SB 202 and **SB 210** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

SB 35 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments

Floor Amendment No. 2 to **SB 205**, by Representative Jensen:

Amend printed copy of **SB 205/GA** as follows:

On page 3, line 8, by deleting the words "***expenses related to administration of government***" and inserting in lieu thereof the following: "***salaries paid to members of the fiscal court from any fund source or for lump-sum expense allowances, including the expense allowance for serving on committees of the fiscal court provided for in KRS 64.530(6)***".

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported the following Consent Bill has been posted for passage in the Regular Orders of the Day for March 19, 1992: **SB 35**.

The Committee on Rules reported that **SJR 37, SB 341, HB 39, HB 242, HB 291, HB 532, HB 609, HB 653, HB 780, HB 831, HB 850, HB 852, HB 853, HB 866, HB 896, HB 902, HB 943, HCR 159, HCR 167, HCR 171, SB 205, SB 269, SB 6, SB 28** and **SB 122** have been posted for passage in the Orders of the Day for March 19, 1992.

Orders of the Day

Representative Stumbo welcomed all guests.

HCR 76, with Floor Amendment and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Floor Amendment No. 1 to **HCR 76**. Agreed.

Representative Morris moved that **HCR 76**, as amended, be adopted.

On the roll call the vote was: Yeas 88, Nays 0. (See March 18, 1992 roll call on **HCR 76** - Appendix.)

HCR 76, as amended, was adopted.

Representative Morris moved the adoption of the Floor Title Amendment to **HCR 76**. Agreed; and the title was agreed to.

Representative Morris moved that the vote by which **HCR 76**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **SB 341**, by Representative Riner:

Amend printed copy of **SB 341/HCS** as follows:

On page 9, after line 6, by adding the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

As used in Sections 3 to 7 of this Act, unless the context requires otherwise:

(1) "Arrearage forgiveness" means a provision of a percentage of income payment program whereby a customer participating in the energy payment program shall have all arrearages that were incurred before entering the program erased or reduced over a specified time period if the low-income customer fulfills payment obligations under the percentage of income payment program;

(2) "Low-income customers" may be defined by the commission but shall not, in any case, include customers residing in a household with a gross income above one hundred thirty percent (130%) of the federal poverty guideline; and

(3) "Percentage of income payment program" means a program whereby low-income customers pay a set percentage of their income in regular monthly payments in return for assurance of continued utility service.

SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall initiate, by July 31, 1992, an inquiry into current methods used by gas and electric utilities to collect overdue bills of low-income customers. In this inquiry the commission shall consider cost-effective alternatives which would result in the least number of disconnections of low-income customers, including but not limited to, percentage of income payment programs.

(2) The commission shall complete its inquiry and report its findings to the Interim Tourism Development and Energy Task Force by April 15, 1993.

(3) Based on its findings and as it deems appropriate, the commission may permit any gas or electric utility to implement or participate in a percentage of income payment program or any other energy assistance program designed to reduce the number of disconnections of low-income customers.

(4) The commission shall consider appropriate rate-making treatment for any arrearage forgiveness provisions in a percentage of income payment program which a gas or electric utility is authorized to implement or participate in pursuant to subsection (3) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Upon a finding that it is in the public interest of the Commonwealth, the commission shall authorize rate-making allowances to encourage electric and gas utility investment in conservation and demand-side management, including investments targeted to low-income customers.

Section 6. KRS 278.160 is amended to read as follows:

(1) Under rules prescribed by the commission, each utility shall file with the commission, within such time and in such form as the commission designates, schedules showing all rates and conditions for service established by it and collected or enforced. The utility shall keep copies of its schedules open to public inspection under such rules as the commission prescribes.

(2) No utility shall charge, demand, collect, or receive from any person a greater or less compensation for any service rendered or to be rendered than that prescribed in its filed schedules, and no person shall receive any service from any utility for a compensation greater or less than that prescribed in such schedules, ***except that less compensation may be required of and arrears may be forgiven customers of gas or electric utilities participating in percentage of income payment programs or other energy assistance programs designed to reduce the number of disconnections of low-income customers, subject to the commission's approval.***

Section 7. KRS 278.170 is amended to read as follows:

(1) No utility shall, as to rates or service, give any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage, or establish or maintain any unreasonable difference between localities or between classes of service for doing a like and contemporaneous service under the same or substantially the same conditions, ***except as authorized in this chapter.***

(2) Any utility may grant free or reduced rate service to its officers, agents, or employees, and may exchange free or reduced rate service with other utilities for the benefit of the officers, agents, and employees of both utilities. Any utility may grant free or reduced rate service to the United States, to charitable and eleemosynary institutions, and to persons engaged in charitable and eleemosynary work, and may grant free or reduced rate service for the purpose of providing relief in case of flood, epidemic, pestilence, or other calamity. The terms "officers" and "employees," as used in this subsection, include furloughed, pensioned, and superannuated officers and employees, and persons who have become disabled or infirm in the service of the utility. Notice must be given to the commission and its agreement obtained for such reduced rate service except in case of an emergency, in which case the commission shall be notified at least five (5) days after the service is rendered.

(3) The commission may determine any question of fact arising under this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 194 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context indicates otherwise:

(a) "Percentage of income payment program" means a program whereby low-income customers pay a set percentage of their income in regular monthly payments in return for assurance of continued utility service;

(b) "Department" means the Department for Social Insurance; and

(c) "Low-Income Home Energy Assistance Program" means the federal energy assistance block grant program prescribed by Public Law 97-35 and administered by the Department of Social Insurance.

(2) Any community action agency, utility, non-profit agency, or other person may submit to the department a proposal to integrate a percentage of income payment program or pilot project into the Low-Income Home Energy Assistance Program. Proposals shall be submitted to the department by May 1 each

year in order to be considered for the next year's plan. The department shall either incorporate proposals received into the Low-Income Home Energy Assistance Program block grant application or report to the designated review body receiving the plan pursuant to KRS 45.351 to 45.359 as to why the proposals were rejected.

Orders of the Day (Continued)

HB 627, with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Floor Amendment No. 3 to **HB 627**. Agreed.

Representative Sheehan moved that **HB 627**, as amended, be passed.

Reprsentative Mason moved the adoption of Floor Amendment No. 1 to **HB 627**. Rejected.

On the roll call on the passage of **HB 627**, as amended, the vote was: Yeas 76, Nays 8. (See March 18, 1992 roll call on **HB 627** - Appendix.)

HB 627, as amended, was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 627**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 226, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of the Committee Substitute to **HB 226**. Agreed.

Representative Noe moved that **HB 226**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 18, 1992 roll call on **HB 226** - Appendix.)

HB 226, by way of Committee Substitute, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 226**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 544, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 544**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 544**. Agreed.

Representative Nunn moved that **HB 544**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 18, 1992 roll call on **HB 544** - Appendix.)

HB 544, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 544**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 130 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **HJR 130** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 18, 1992 roll call on **HJR 130** - Appendix.)

HJR 130 was adopted.

Representative Ark moved that the vote by which **HJR 130** was adopted be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to the Committee Substitute to **HB 881**, by Representative Palumbo:

Amend printed copy of **HB 881/HCS** as follows:

On page 1, line 4, by deleting the word "***shall***" and inserting in lieu thereof the word "***may***".

Orders of the Day (Continued)

HJR 147, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of Committee Amendment No. 1 to **HJR 147**. Agreed.

Representative Ridley moved that **HJR 147**, as amended, be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 18, 1992 roll call on **HJR 147** - Appendix.)

HJR 147, as amended, was adopted.

Representative Ridley moved that the vote by which **HJR 147**, as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 148 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HJR 148** be adopted.

On the roll call the vote was: Yeas 87, Nays 0. (See March 18, 1992 roll call on **HJR 148** - Appendix.)

HJR 148 was adopted.

HCR 153 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HCR 153** be adopted.

On the roll call the vote was: Yeas 88, Nays 0. (See March 18, 1992 roll call on **HCR 153** - Appendix.)

HCR 153 was adopted.

Representative Arnold moved that the vote by which **HCR 153** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 314**, **HB 327**, **HB 420** and **HB 568** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:40 p.m.)

HB 314, **HB 327**, **HB 420** and **HB 568** were delivered to the Senate and signed by the President. Delivered to the Governor on March 18, 1992 at 2:55 p.m.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 269**, by Representative Geveden:

Amend printed copy of **SB 269/GA** as follows:

on page 4, line 17, by adding thereafter,

"SECTION 6. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The primary legislative body of each county may enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of Sections 6 to 10 of this Act, the primary legislative body of each county that does not have an urban-county or charter county government shall be the fiscal court.

(2) The reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters, shall be paid out of the fees and commissions collected by the sheriff. If the fees and commissions are not sufficient to pay the expenses of the board and the other expenses authorized by statute to be paid from these fees and commissions, the sheriff may negotiate with the primary legislative body to determine a method of paying all or part of the expenses of the board.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive with approval by the primary legislative body, two (2) members appointed by the county sheriff, and one (1) member elected by the deputy sheriffs of the county. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. No person shall be appointed to the board who is a member of the immediate family of the sheriff of the county served by the board. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

(8) For the purpose of this section, "member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

SECTION 7. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Each person serving as a deputy sheriff on the effective date of an ordinance that creates a deputy sheriff merit board for the county in which he serves shall, within one (1) year following the effective date of that ordinance, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(2) Each person appointed as a deputy sheriff in a county that has adopted a deputy sheriff merit board before the date of his appointment shall, within one (1) year following the appointment, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(3) A person failing to meet the requirements of this section shall forfeit his position as deputy sheriff immediately upon the expiration of the applicable one (1) year time limit.

SECTION 8. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall be suspended, laid off, demoted, promoted, disciplined, threatened or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose. Nothing in this subsection shall limit the power of a sheriff to revoke the appointment of a deputy during the probationary period described in subsection (5) of this section.

(3) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall be a candidate for any public office. Any person who violates this subsection shall forfeit his position as deputy sheriff.

(4) Nothing contained in this section shall be construed to abridge the rights of any deputy sheriff with respect to his personal opinions, beliefs, or right to vote.

(5) A deputy sheriff's employment shall be probationary during the first year of service. A sheriff may, at his pleasure, revoke the appointment of a deputy who works for him at any time within one (1) year following the appointment.

SECTION 9. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Any deputy sheriff may be removed, suspended, or laid off by the sheriff for any cause which will promote the efficiency of the department. Except when an appointment is revoked during the probationary period described in subsection (5) of Section 8 of this Act, the sheriff shall furnish the deputy with a written statement of the reason why the action was taken.

(2) Except for the revocation of an appointment pursuant to subsection (5) of Section 8 of this Act, every action in the nature of a dismissal, suspension, or reduction made by the sheriff shall be subject to review by the board at the request of any deputy sheriff affected by the provisions of Sections 6 to 10 of this Act.

(3) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall present the charges to the sheriff, who shall investigate the charges. The sheriff shall determine what action, if any, shall be taken against the deputy, subject to the limitations set out in Sections 6 to 10 of this Act. The citizen may appeal the determination of the sheriff to the board.

SECTION 10. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The board may remove, suspend, lay off or discipline any deputy sheriff covered by the provisions of Sections 6 to 10 of this Act on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the deputy accused shall have the right to be present, represented by counsel, and confronted by all of the witnesses preferring charges against him.

(2) Procedural due process shall be afforded to all deputy sheriffs by the board.. The board shall notify the deputy promptly and in writing of any charges brought against him by the board or by a citizen. The board shall have the power to issue subpoenas and to compel the attendance of witnesses, and shall conduct the hearing, as far as possible, within the Kentucky Rules of Civil Procedure. Any deputy who is not given a hearing within sixty (60) days of any charge being preferred shall be reinstated in full.

(3) After a full public hearing by the board, the board shall retire into executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. The board in executive session shall not receive any further evidence or communication from any source, except for legal advice from the board's counsel, prior to reaching its determination and conclusion.

(4) When an appointment is revoked during the probationary period described in subsection (5) of Section 8 of this Act, the action of the sheriff shall be final. In all other disciplinary matters, the action of the sheriff or the board shall be final, except that any aggrieved person may, within thirty (30) days after the decision is rendered, appeal to the Circuit Court of the county in which the board meets. The board shall be named as respondent, and the county attorney shall represent the board before the court. The appeal taken to the Circuit Court shall be a review of record by the court.

(5) The provisions of Sections 6 to 10 of this Act shall not apply to any nonsworn employee appointed by the sheriff pursuant to KRS 70.030 or to any special deputy appointed by the sheriff pursuant to KRS 70.045.

Section 11. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his own deputies, and may revoke the appointment at his pleasure ***except where that revocation is prohibited by the provisions of Sections 6 to 10 of this Act***. Before any deputy executes the duties of his office, he shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him in the performance of the duties of his office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under Section 6 of this Act shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in Section 6 of this Act.

Floor Title Amendment to **SB 269**, by Representative Geveden:

Amend printed copy of **SB 269/GA** as follows:

On page 1, by amending the title to read:

"AN ACT relating to peace officers.".

Floor Amendment No. 1 to **HB 943**, by Representative Sheehan:

Amend printed copy of **HB 943** as follows:

On page 5, following line 17, by adding the following:

"Section 5. The following KRS section is repealed:

411.320 Circumstances under which defendant is liable."

Floor Title Amendment to **SB 187**, by Representative Geveden:

Amend printed copy of **SB 187** as follows:

Amend title to read as follows: "AN ACT relating to the Unified Juvenile Code".

Floor Amendment No. 1 to **SB 187**, by Representative Geveden:

Amend printed copy of **SB 187/GA** as follows:

On page 8, after line 4, by adding the following:

"Section 4. KRS 620.250 is amended to read as follows:

(2) Each local citizen review board shall have access to ***all*** [~~any~~] information and records of the cabinet pertinent to the parents or person exercising custodial control or supervision of the child assigned to the

local board for review. ***Information and records shall include, but not be limited to, case permanency plans, case progress reports, case records, and out-of-state pre-adoptive home studies.***

(2) Each local citizen review board shall have access to ***all*** [~~any~~] information and records of the court, the cabinet, and public and private child-caring facilities ***when pertinent to the child assigned to the local board for review. Information and records shall include, but not be limited to, case permanency plans, case progress reports, case records, and out-of-state preadoptive home studies*** [~~when pertinent to the child assigned to the local board for review~~].

(3) All requested information or records, or both, not already before the local citizen review board at the time of the six (6) months review shall be submitted by the agency or organization in possession of the information or records, or both, no later than five (5) working days after the receipt of the request.

(4) ***If*** [~~Should~~] the local citizen review board ***is*** [~~be~~] denied access to any public or private information or records, or both, it may request the court to hold a hearing, at which time the court may require the agency or organization in whose possession the information or records, or both, are held to show cause as to the reasons why the information or records, or both, ***shall*** [~~should~~] not be ordered surrendered pursuant to its authority.

Section 5. KRS 620.270 is amended to read as follows:

(1) The local citizen review board shall review each child committed to the cabinet who was committed from the county or counties which the board serves. The review shall occur at least once every six (6) months until the child is no longer committed to the cabinet or until an adoption proceeding becomes final.

(2) During each six (6) month review, the local citizen review board shall review:

(a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, [~~and~~] case progress reports, ***and out-of-state preadoptive home studies*** submitted by the cabinet and [~~such~~] other information as the board may require;

(b) The efforts or adjustment the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;

(c) The efforts of the cabinet to locate and provide services to the biological parents of the child;

(d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and

(e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board ***determine to*** [~~may feel should~~] be explored with regard to the best interests of the state or of the child.

(3) Upon completion of a training curriculum developed and provided jointly by the Administrative Office of the Courts and by the Department for Social Services and approved by the state review board in regard to child sexual abuse, the local citizen review board may review, at the discretion of the board, a sample of all petitions filed in the District Court of the county served by the board alleging sexual abuse of any child, not to exceed two hundred (200) petitions per year statewide, in order to determine the adequacy of the investigation, and the appropriateness of findings, adjudication, and disposition of the court. The board shall have access to all records of the cabinet, medical and mental health professionals, and law enforcement agencies pertaining to these cases. The board shall provide the cabinet and the court a full report of the findings and recommendations concerning the review.

Section 6. KRS 620.320 is amended to read as follows:

The duties of the state citizen review board shall be to:

(1) Establish and approve training programs for local citizen review board members;

(2) Review and coordinate the activities of local citizen review boards;

(3) Establish reporting procedures to be followed by the local citizen review boards and to provide information on the effectiveness of such local citizen review boards; and

(4) Evaluate and make annual recommendations to the Supreme Court, Governor, and the Legislative Research Commission regarding:

(a) Laws of the Commonwealth***;*** [~~and~~]

(b) Practices, policies, and procedures within the Commonwealth affecting permanence for children in out-of-home placement ***and the investigation of allegations of abuse and neglect***; and

(c)[~~(b)~~] The effectiveness or lack thereof and reasons therefor of local citizen review of children in foster care in bringing about permanence for the Commonwealth's children.

Section 7. KRS 620.070 is amended to read as follows:

(1) A dependency, neglect, or abuse action may be commenced by the filing of a petition by any interested person in the juvenile session of the District Court.

(2) After a petition has been filed, the clerk of the court shall issue, and the sheriff or other authorized agent shall serve, a copy of the petition and a summons to the parent or other person exercising custodial control or supervision, unless their identity or location is unknown, in which case the petition and summons shall be served on the nearest known adult relative.

(3) The summons shall include an explanation of the importance of the petition and an explanation of the rights of the parent or other person exercising custodial control in any subsequent proceedings. The summons shall emphasize the importance of immediately contacting the court about legal representation and to be advised of the date, time, and place when the parent or other person exercising custodial control or supervision is to appear before the court. ***The summons shall include written notification that the case may be reviewed by a local citizen review board and the report of the board review shall become part of the court record.***

Section 8. KRS 620.190 is amended to read as follows:

(1) There shall be established within each judicial district a Foster Care Citizen Review Board to be appointed by the Chief District Judge. The Chief District Judge may authorize the creation of additional local citizen review boards as needed.

(2) Each local citizen review board shall consist of not less than three (3) [~~nor more than five (5)~~] members and shall be appointed according to the following guidelines:

(a) At least two (2) members of each local citizen review board shall be chosen from among the following professions: law, medicine, psychology, social work, and education, and shall have a demonstrated interest in foster care or child welfare. At least one (1) member shall have demonstrated interest in foster care or child welfare;

(b) All members of each local citizen review board shall, as far as practicable, be representative of the socioeconomic, racial, and ethnic composition of the area served;

(c) Employees of the cabinet shall be prohibited from serving on the local citizen review board; and

(d) [~~Of the initial appointees to each local citizen review board, the Chief District Judges shall designate one (1) member to serve a term of one (1) year, not less than one (1) nor more than two (2) members to serve a term of two (2) years, and not less than one (1) nor more than two (2) members to serve a term of three (3) years.~~] All ***appointed*** [~~subsequent~~] board members shall serve a term of three (3) years, except that if a vacancy occurs, a successor shall be appointed to serve the unexpired term. The term of each member shall expire on August *1* [~~first~~] of the appropriate year. Members may be reappointed and shall continue to serve until a successor is appointed.

(3) Local citizen review board members may be removed for nonparticipation or other cause.

(4) Each local citizen review board shall annually elect a chairman and vice-chairman to serve in the absence of the chairman.

(5) Each local citizen review board shall meet, at a place designated by the Chief District Judge, as often as is deemed necessary to carry out the duties of the board. The local citizen review board shall meet no less than four (4) times annually.

Section 9. The following KRS section is repealed:

620.300 Notice of completed reviews."

Orders of the Day (Continued)

HCR 158 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HCR 158** be adopted.

On the roll call the vote was: Yeas 87, Nays 1. (See March 18, 1992 roll call on **HCR 158** - Appendix.)

HCR 158 was adopted.

Representative Geveden moved that the vote by which **HCR 158** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 812, with Committee Amendment, Floor Amendment and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **HB 812**. Agreed.

Reprsentative Lear moved the adoption of Floor Amendment No. 1 to **HB 812**. Agreed.

Representative Morris moved that **HB 812**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 5. (See March 18, 1992 roll call on **HB 812** - Appendix.)

HB 812, as amended, was passed.

Representative Morris moved the adoption of Floor Title Amendment to **HB 812**. Agreed; and the title was agreed to.

Representative Morris moved that the vote by which **HB 812**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 58, with Committee Amendment, Floor Amendments and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Committee Amendment No. 1 to **HB 58**. Agreed.

Representative J. Harper moved the adoption of Floor Amendment No. 1 to **HB 58**. Agreed.

Representative Deskins moved the adoption of Floor Amendment No. 2 to **HB 58**. Agreed.

Representative Wayne moved that **HB 58**, as amended, be passed.

On the roll call the vote was: Yeas 18, Nays 55. (See March 18, 1992 roll call on **HB 58** - Appendix.)

HB 58, as amended, was defeated.

Floor Amendments (Continued)

Floor Amendment No. 3 to **SB 269**, by Representative Ark:

Amend printed copy of **SB 269/GA** as follows:

On page 3, line 20, by deleting "*five*" and inserting and underlining in lieu thereof, "***ten***"; and

On page 3, line 21, by deleting "*(5)*" and inserting and underlining in lieu thereof, "***(10)***".

Orders of the Day (Continued)

HB 250, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved the adoption of the Committee Substitute to **HB 250**. Agreed.

Representative Freibert moved the adoption of Committee Amendment No. 1 to **HB 250**. Agreed.

Representative Freibert moved that **HB 250**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 18, 1992 roll call on **HB 250** - Appendix.)

HB 250, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 250**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 64, with Committee Substitute and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of the Committee Substitute to **HCR 64**. Agreed.

Representative Wayne moved that **HCR 64**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 93, Nays 0. (See March 18, 1992 roll call on **HCR 64** - Appendix.)

HCR 64, by way of Committee Substitute, was adopted.

Representative Hancock moved the adoption of the Committee Title Amendment to **HCR 64**. Agreed; and the title was agreed to.

Representative Hancock moved that the vote by which **HCR 64**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 701, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 701** be passed.

Representative Stokes moved the adoption of Floor Amendment No. 1 to **HB 701**.

On the roll call the vote was yeas 30—Allen, Ark, Bryant, Burch, Casebier, Farley, Ford, Freibert, Gee, Gregory, J. Harper, Heleringer, Jensen, Keith, Lile, Mack, Napier, Noland, Nunn, Reinhardt, Richardson, Scorsone, Stokes, Toby, Todd, Turner, Walker, Wayne, Williams, Zimmerman. Nays 43—Ackerson, Adkins, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Butler, Castleman, L. Clark, P. Clark, Collins, Cyrus, Deskins, Farrow, Geveden, Gray, Hancock, Hatcher, Hourigan, Jones, Kerr, Little, Maggard, Mason, McElroy, Moberly, Mullinix, Nelson, Palumbo, Rapier, Ravenscraft, Richards, Ridley, Riggs, Riner, B. Smith, R. Smith, Stumbo, Ward, Worthington, Yates.

Floor Amendment No. 1 to **HB 701** was rejected.

On the roll call on the passage of **HB 701** the vote was: Yeas 54, Nays 27. (See March 18, 1992 roll call on **HB 701** - Appendix.)

HB 701 was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 701** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 326, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Floor Amendment No. 1 to **HB 326**. Agreed.

Representative Deskins moved that **HB 326**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 18, 1992 roll call on **HB 326** - Appendix.)

HB 326, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 326**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amenmdents (Continued)

Floor Amendment No. 4 to **HB 729**, by Representative Moberly:

Amend printed copy of **HB 729** as follows:

On page 5, lines 1 to 5, by deleting all the text thereon.

Floor Amendment No. 1 to **HB 443**, by Representative Barrows:

Amend printed copy of **HB 443** as follows:

On page 6, line 13, by changing the "." to ":" and by deleting "***If the board***";

On page 6, by deleting lines 14 through 19 in their entirety;

On page 6, line 20, by deleting "***determine whether to grant the waiver***" and inserting in lieu thereof the following:

"***1. The board shall afford the council a hearing within thirty (30) days from the date of the request for a waiver of board policy, unless a process of mediation has been initiated.***

2. The board shall issue a written decision with its rationale no later than sixty (60) days from the date of the hearing.

3. At any point in the process, the board may initiate a process for mediation or may direct a review and report on the issues, but shall not delay its decision beyond sixty (60) days from the date of the hearing without the agreement of the requesting council";

On page 6, line 25, by changing the "." to ":" and by deleting "***After the appeal process has been exhausted at***";

On page 6, by deleting line 26 and on page 7, by deleting lines 1 through 6 in their entirety, and by deleting on line 7 "***uphold the council's decision***" and inserting in lieu thereof the following:

"***1. An appeal on a decision made by a school council shall first be reviewed by the school council, which shall make a timely response to the appealing party.***

2. If the matter is not resolved by the council, the appealing party may appeal to the board of education within twenty (20) days. The board shall afford the affected parties a hearing within thirty (30) days of the appeal to the board.

3. The board shall issue a written decision with its rationale no later than sixty (60) days after the date of the hearing.

4. At any point in the process, the board may initiate a process for mediation or may direct a review and report on the issues, but shall not delay its decision beyond sixty (60) days from the date of the hearing without the agreement of the affected parties";

On page 9, after line 25, by adding the following:

"Section 2. KRS 156.070 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in such schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency. The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in high school sports or from participating on more than one (1) school-sponsored team at the same time in the same sport.

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission; provided, however, that the option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

(6) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, may hear and advise local school districts and affected parties when disputes arise."

Orders of the Day (Continued)

HB 611 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **HB 611** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 18, 1992 roll call on **HB 611** - Appendix.)

HB 611 was passed and the title agreed to.

Representative Jones moved that the vote by which **HB 611** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 110, with Committee Substitute and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HCR 110**. Agreed.

Representative R. Smith moved that **HCR 110**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 91, Nays 0. (See March 18, 1992 roll call on **HCR 110** - Appendix.)

HCR 110, by way of Committee Substitute, was adopted.

Representative R. Smith moved the adoption of the Committee Title Amendment to **HCR 110**. Agreed; and the title was agreed to.

Representative R. Smith moved that the vote by which **HCR 110**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 889, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 889**. Agreed.

Representative Callahan moved that **HB 889**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See March 18, 1992 roll call on **HB 889** - Appendix.)

HB 889, by way of Committee Substitute, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 889**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 533, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 533**. Agreed.

Representative Scorsone moved the adoption of Floor Amendment No. 1 to **HB 533**. Agreed.

Representative Lear moved that **HB 533**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 18, 1992 roll call on **HB 533** - Appendix.)

HB 533, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 533**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 388, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 388**. Agreed.

Representative Donnermeyer moved that **HB 388**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See March 18, 1992 roll call on **HB 388** - Appendix.)

HB 388, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 388**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 820 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved that **HB 820** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 18, 1992 roll call on **HB 820** - Appendix.)

HB 820 was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 820** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 517, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of the Committee Substitute to **HB 517**. Agreed.

Representative Clarke moved that **HB 517**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 1. (See March 18, 1992 roll call on **HB 517** - Appendix.)

HB 517, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 517**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 588, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Floor Amendment No. 1 to **HB 588**. Agreed.

Representative Mason moved that **HB 588**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 18, 1992 roll call on **HB 588** - Appendix.)

HB 588, as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 588**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to **SB 205**, by Representative Jensen:

Amend printed copy of **SB 205/GA** as follows:

On page 3, line 8, by deleting the words "***expenses related to administration of government***" and inserting in lieu thereof the following: "***salaries paid to members of the fiscal court from any fund source or for lump-sum expense allowances, including the expense allowance for serving on committees of the fiscal court provided for in KRS 64.530(6)***".

Orders of the Day (Continued)

HB 740, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 740**. Agreed.

Representative Palumbo moved that **HB 740**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 18, 1992 roll call on **HB 740** - Appendix.)

HB 740, by way of Committee Substitute, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 740**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 99 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HB 99** be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 18, 1992 roll call on **HB 99** - Appendix.)

HB 99 was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 99** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 799 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 799** be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 18, 1992 roll call on **HB 799** - Appendix.)

HB 799 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 799** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 776, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 776** be passed.

Representative Hancock moved the adoption of Floor Amendment No. 2 to **HB 776**.

On the roll call the vote was yeas 57—Ackerson, Adkins, Arnold, Ballard, Barrows, Bronger, Bruce, Burch, Butler, Callahan, Casebier, P. Clark, Coleman, Crupper, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Gedling, Gee, Gray, Gregory, Hancock, Hatcher, Jones, Keith, Kerr, Lear, LeMaster, Lile, Little, Long, Lyne, Maggard, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Nunn, Pritchett, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Sheehan, B. Smith, T. Smith, Toby, Todd, Turner, Yates, Zimmerman. Nays 23—Ark, Bentley, Blandford, Bowling, Brown, Castleman, L. Clark, Clarke, Curd, Freibert, Geveden, Hourigan, Lewis, Mack, Mason, Palumbo, Rapier, Riner, Scorsone, Stumbo, Walker, Wayne, Worthington.

Floor Amendment No. 2 to **HB 776** was adopted.

Representative Richards moved the adoption of Floor Amendment No. 1 to **HB 776**. Agreed.

Representative Stumbo moved that **HB 776**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 4. (See March 18, 1992 roll call on **HB 776** - Appendix.)

HB 776, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 776**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 919 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved that **HB 919** be passed.

On the roll call the vote was: Yeas 72, Nays 13. (See March 18, 1992 roll call on **HB 919** - Appendix.)

HB 919 was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 919** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 163, with Committee Substitute and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HCR 163**. Agreed.

Representative R. Smith moved that **HCR 163**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 90, Nays 0. (See March 18, 1992 roll call on **HCR 163** - Appendix.)

HCR 163, by way of Committee Substitute, was adopted.

Representative R. Smith moved the adoption of the Committee Title Amendment to **HCR 163**. Agreed; and the title was agreed to.

Representative R. Smith moved that the vote by which **HCR 163**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 164 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved that **HJR 164** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 18, 1992 roll call on **HJR 164** - Appendix.)

HJR 164 was adopted.

Representative R. Smith moved that the vote by which **HJR 164** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 7, with Floor Amendment and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Floor Amendment No. 1 to **HB 7**. Agreed.

Representative Donnermeyer moved that **HB 7**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See March 18, 1992 roll call on **HB 7** - Appendix.)

HB 7, as amended, was passed.

Representative Donnermeyer moved the adoption of the Floor Title Amendment to **HB 7**. Agreed; and the title was agreed to.

Representative Donnermeyer moved that the vote by which **HB 7**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 15, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of the Committee Substitute to **HB 15**. Agreed.

Representative Gelding moved that **HB 15**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 18, 1992 roll call on **HB 15** - Appendix.)

HB 15, by way of Committee Substitute, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 15**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 28, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 28**. Agreed.

Representative Donnermeyer moved that **HB 28**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See March 18, 1992 roll call on **HB 28** - Appendix.)

HB 28, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 28**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 113, with Committee Substitutes attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Committee Substitute No. 2 to **HB 113**. Agreed.

Representative Mason moved that **HB 113**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 18, 1992 roll call on **HB 113** - Appendix.)

HB 113, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 113**, by way of Committee Substitute No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 201, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **HB 201**. Agreed.

Representative R. Smith moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 201**. Agreed.

Representative R. Smith moved that **HB 201**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 47, Nays 42. (See March 18, 1992 roll call on **HB 201** - Appendix.)

HB 201, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 201**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 119**, by Representative Ford:

Amend printed copy of **SB 119/GA** as follows:

On page 2 following line 25 by adding "***(7) A listing contract on a parcel of real estate between a broker and an owner shall constitute a lien on the listed property if the listed property is sold during the time of the listing.***"

Orders of the Day (Continued)

HB 267, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **HB 267**. Agreed.

Representative Morris moved that **HB 267**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 18, 1992 roll call on **HB 267** - Appendix.)

HB 267, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 267**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 230, with Committee Amendment and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bryant moved the adoption of Committee Amendment No. 1 to **HB 230**. Agreed.

Representative Bryant moved that **HB 230**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See March 18, 1992 roll call on **HB 230** - Appendix.)

HB 230, as amended, was passed.

Representative Bryant moved the adoption of the Committee Title Amendment to **HB 230**. Agreed; and the title was agreed to.

Representative Bryant moved that the vote by which **HB 230**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 725, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 725**. Agreed.

Representative Donnermeyer moved that **HB 725**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 7. (See March 18, 1992 roll call on **HB 725** - Appendix.)

HB 725, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 725**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Ark moved the adoption of the following **HR 181**:

HR 181, A RESOLUTION in commemoration of the tenth anniversary of the Vietnam Veterans Memorial in Washington, D. C.

WHEREAS, it is with heavy hearts and deep sadness when we reflect upon the tragedies of the Vietnam War; and

WHEREAS, 1992 marks the tenth anniversary of the Vietnam Veterans Memorial in Washington, D.C.; and

WHEREAS, during 1992, the Vietnam Veterans Memorial Fund will be sponsoring special events in Washington, D.C. and at other locations around the country; and

WHEREAS, several educational seminars will be offered that focus on major issues (to name a few) concerning military decision-making, student activism, Hollywood's view of the war and race relations in Vietnam; and

WHEREAS, November 7-11, 1992 will complete the commemoration period when thousands of veterans and their families unite in Washington, D.C.;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body encourages the citizens of our great Commonwealth to unite in remembrance and reflection of the Vietnam Veterans who so ably served their country.

Section 2. That this honorable body commends the Vietnam Veterans Memorial Fund for their support and tireless efforts toward making this commemoration period a time for remembrance and reflection.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Jan Scruggs, President, Vietnam Veterans Memorial Fund, Inc., 815 Fifteenth Street, N.W., Suite 601, Washington, D.C. 20005.

HR 181 was adopted by voice vote.

Representative Ark moved that a call of the roll be taken to show co-sponsors of **HR 181**.

On the roll call the vote was yeas 74—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bronger, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Coleman, Collins, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Jensen, Jones, Kerr, Lear, LeMaster, Lile, Little, Lyne, Maggard, McElroy, Moberly, Morris, Mullinix, Napier, Noland, Palumbo, Pritcett, Rapier, Reinhardt, Richards, Richardson, Ridley, Riggs, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Todd, Turner, Ward, Williams, Worthington, Yates, Zimmerman. Nays 0.

HR 227, by Representatives LeMaster and Arnold: A RESOLUTION honoring the Nicholas County High School girls' basketball team.

Representative LeMaster moved the adoption of the following **HR 227**:

HR 227, A RESOLUTION honoring the Nicholas County High School girls' basketball team.

WHEREAS, the Nicholas County girls' basketball team has moved into the Sweet Sixteen; and

WHEREAS, the Lady Jackets toppled Clark County 23 to 18 in the Tenth Region girls' basketball finals at Bourbon County High School; and

WHEREAS, this Thursday, March 19, Nicholas County takes a 29-3 record into the Girls' Sweet Sixteen first round game against Fifteenth Region champion Sheldon Clark;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the Nicholas County High School girls' basketball team and wishes them every success in the Sweet Sixteen.

Section 2. That this honorable body praises the performance of each member of the team and Coach Barbara Kinney and assistant coaches, Penny Bretz, and Mike Kinney.

Section 3. That the Clerk of the House of Representatives is directed to send two copies of this Resolution to Coach Barbara Kinney, Nicholas County High School, School Drive, Carlisle, Kentucky 40311.

HR 227 was adopted by voice vote.

HR 229, by Representative Hancock: A RESOLUTION in loving memory and honor of S. C. VanCuron.

Representative Hancock moved the adoption of the following **HR 229**:

HR 229, A RESOLUTION in loving memory and honor of S. C. VanCuron.

With deepest respect, we pay homage and tribute to S. C. VanCuron.

WHEREAS, S. C. VanCuron, a native of Ada, Oklahoma, was born on September 29, 1911 and departed this life on March 17, 1992; and

WHEREAS, S. C. VanCuron was the loving son of Samuel L. and Mattie Elizabeth Coleman VanCuron; and

WHEREAS, S. C. VanCuron's career in journalism spanned sixty-seven years to include editor of the Harlan Daily Enterprise in Harlan, Kentucky from 1941 until 1959 and editor of The State Journal from 1959 until 1976; and

WHEREAS, S. C. VanCuron will be long remembered for his high principals, and long standing commitment to ethics and truth in journalism; and

WHEREAS, S. C. VanCuron was the loving husband of Helen Trask VanCuron, the adored father of Joy VanCuron Blanton and Samuel Mark VanCuron and proud grandfather to three grandchildren and two great-grandchildren; and

WHEREAS, the passing of S. C. VanCuron has left a void that will be difficult to fill and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body expresses its most profound sense of sorrow upon the passing of S. C. VanCuron and does extend to his family and friends its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of S. C. VanCuron.

Section 3. That the Clerk of the House of Representatives is directed to transmit six copies of this Resolution to Mrs. Helen T. VanCuron, 509 Comanche Trail, Frankfort, Kentucky 40601.

HR 229 was adopted by voice vote.

Representative Hancock moved that a call of the roll be taken to show co-sponsors of **HR 229**.

On the roll call the vote was yeas 78—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, P. Clark, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Heleringer, Hourigan, Johnson, Jones, Kerr, Lear, Lile, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Stumbo, Toby, Todd, Turner, Ward, Wayne, Worthington, Zimmerman. Nays 0.

HR 228, by Representatives Hancock, Little and Pritchett: A RESOLUTION wishing a speedy and full recovery to Mr. B. C. Meeks, Executive Director of Kentucky association of Highway Contractors.

Representative Hancock moved the adoption of the following **HR 228**:

HR 228, A RESOLUTION wishing a speedy and full recovery to Mr. B. C. Meeks, Executive Director of Kentucky Association of Highway Contractors.

WHEREAS, Mr. Meeks suffered an aneurism Sunday, March 15, 1992 and is currently in the intensive care unit at Baptist East hospital in Louisville; and

WHEREAS, Mr. Meeks has served as Executive Director for the Kentucky Association of Highway Contractors for the past five years and has established himself as an invaluable resource to his organization and to the legislature; and

WHEREAS, Mr. Meeks' kind and generous nature has endeared him in all walks of life to both friend and family;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Mr. B. C. Meeks be remembered in our prayers and that he is wished a thorough and speedy recovery.

Section 2. That copies of this resolution be sent to his wife Sara, and his daughter Kim.

HR 228 was adopted by voice vote.

Representative Hancock moved that a call of the roll be taken to show co-sponsors of **HR 228**.

On the roll call the vote was yeas 85—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Bowling, Bronger, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Heleringer, Hourigan, Johnson, Jones, Kerr, Lear, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Sanders, Sheehan, B. Smith, R. Smith, T. Smith, Strong, Stumbo, Toby, Todd, Turner, Ward, Wayne, Worthington, Yates, Zimmerman. Nays 0.

Representative Farrow moved the adoption of the following **HR 225**:

HR 225, A RESOLUTION honoring the Georgetown College Tigers men's basketball team.

WHEREAS, the Georgetown College Tigers men's basketball team has an awesome 33 and 1 win/loss record and is in Kansas City, where they have already won their first round game in pursuit of the national championship; and

WHEREAS, the Tigers have won by an average of 21.7 points per game with an average of 95 points per game, thanks to hitting a sizzling 55.3 percent of their field goal attempts and 68 percent of their free throws; and

WHEREAS, this scoring machine is led by a balanced attack of five different players: Mark Tandy who scored a career-high twenty-eight against Trevecca Nazarene; Allen McCowan who tossed in an incredible thirty-eight against the University of Charleston; Russell Chadwell who pumped in thirty-four versus Alderson-Broaddus; Allen Burchett who scored twenty-eight against Campbellsville; and Eddie Johnson who threw in eighteen when playing Cumberland College; and

WHEREAS, the Tigers have also outrebounded their opponents by an average of nearly seven boards per game; and

WHEREAS, Georgetown's near perfect season has earned them the number two national ranking and a chance to follow their football counterparts in bringing home a national championship;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate and honor the Georgetown College Tigers men's basketball team for their sterling achievements this season and wishes them continued success in Kansas City in their quest for the national championship.

Section 2. That the House of Representatives commends the guidance of head coach Jim Reid and his assistants Happy Osborne and Bill Sargent and the support provided by the professors, administrators, and staff of Georgetown College.

Section 3. That the Clerk of the House of Representatives is directed to transmit three copies of this Resolution to Jim Reid, head basketball coach, Georgetown College, 400 East College Street, Georgetown, Kentucky 40324.

HR 225 was adopted by voice vote.

Representative Farrow moved the adoption of the following **HR 226**:

HR 226, A RESOLUTION in honor of Brian Duvall.

WHEREAS, Brian Duvall is a seventh grade student at Harrison County Middle School in Cynthiana, Kentucky and the son of Ron and Debbie Duvall; and

WHEREAS, Brian Duvall after having taken second place in the Harrison County Middle School spelling bee and first place in the Harrison County spelling bee, was invited to compete in the Kentucky Education Association Central District spelling bee; and

WHEREAS, Brian Duvall, on March 7, 1992 in Lexington, Kentucky, competed against eighteen different school systems throughout the Commonwealth to capture third place in the contest; and

WHEREAS, Brian Duvall is a well articulated young man with a genius for words;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is indeed pleased to honor Brian Duvall for his excellent competitive skills in spelling, and wishes him success in all future endeavors.

Section 2. That the Clerk of the House of Representatives is hereby directed to transmit copies of this Resolution to Mr. Brian Duvall, 113 Grandview Drive, Cynthiana, Kentucky 41031 and to Mr. Lloyd Ogden, Principal, Harrison County Middle School, 149 Education Drive, Cynthiana, Kentucky 41031.

HR 226 was adopted by voice vote.

Representative Stumbo moved that the three day posting requirement on **SB 239** and **SB 209** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 230, by Representatives Yates and L. Clark: A RESOLUTION recognizing the contributions of B. F. Goodrich Company.

HR 231, by Representative Cyrus: A RESOLUTION recognizing the concern for collective bargaining rights for public employees and the need for the creation of a task force to study those concerns.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **SB 195**

Education: **HB 367, HB 907, SB 420**

Appropriations and Revenue: **SB 258, SB 301, SB 329, SB 383**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Labor and Industry: **HB 406**

Report of Committees (Continued)

The Committee on Education reported **HB 77**, with Committee Substitute attached thereto, **HB 443**, with Committee Amenmdent attached thereto, **HB 787, HB 849, HR 132, HR 133, SB 51, SB 74, SB 75, SB 78**, with Committee Amendment attached thereto, **SB 82**, with Committee Amendments and Title Amendment attached thereto, **SB 260** and **SJR 85**, with Committee Amendment and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 77, AN ACT relating to the Workforce Development Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) Instructors and administrators employed in full-time postsecondary programs shall work twelve (12) months and shall earn annual leave as provided by State Board for Adult and Technical Education administrative regulations.

(2) Secondary instructors in area centers and state vocational technical schools shall be employed from August 1 through June 15 and shall not earn annual leave. Secondary instructors who have earned annual leave prior to the effective date of this Act shall be reimbursed for at least ten (10) days of earned leave yearly at the instructor's current daily rate. Secondary instructors shall be reimbursed for all earned annual leave if their employment ends before they have been reimbursed in full. Secondary instructors shall be given three (3) personal days each work year without loss of salary.

(3) The State Board for Adult and Technical Education shall annually adopt a compensation plan which is based upon the same daily rate provided in the state teacher salary schedule adopted in the biennial budget for teachers of comparable experience and educational qualifications. Indexes may be incorporated in the compensation plan for administrative responsibilities.

Section 2. KRS 151B.035 is amended to read as follows:

(1) Effective July 1, 1990, all existing staff in the field offices and the state-operated vocational schools and appropriate central office personnel from the Kentucky Department of Education shall be transferred to the Department for Adult and Technical Education. Those individuals with merit status shall be transferred to the department. Those employees who are on probation shall be transferred but shall be subject to completion of the probationary period. Annual, compensatory, and sick leave accrued as of July 1, 1990, shall be transferred with the employees.

(2) The State Board for Adult and Technical Education shall adopt and establish by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult and Technical Education central office, state-operated vocational facilities, and regional staffs. The regulations shall not become effective until October 1, 1990. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A.

(3) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult and Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(4) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the Kentucky Tech System school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(5) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body, other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult and Technical Education.

(6) The commissioner for adult and technical education shall be the appointing authority with respect to all personnel actions. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(7) The board shall adopt other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices and central office in the Department for Adult and Technical Education [~~that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable~~

~~qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor. The annual percentage increment under the salary schedule shall be at least equal to that provided for other state employees~~];

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

(8) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make such investigation as may be requested by the General Assembly or the Governor and to report thereon.

(9) The board shall adopt administrative regulations for a due process hearing and appeal system for aggrieved certified or equivalent employees.

(10) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(11) The board may, any statute to the contrary notwithstanding, delegate the taking of evidence, and the rendition of a written recommendation of disposition to the full board, to a panel of the board, or to a single member of the board acting as a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final decision or determination, based upon the evidence submitted.

(12) The board shall promulgate regulations governing the unclassified service including the preparation and maintenance of a salary schedule and other regulations authorized by this chapter.

The Committee Substitute to **HB 77** is as follows:

HB 77, AN ACT relating to the Workforce Development Cabinet.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 151B IS CREATED TO READ AS FOLLOWS:

(1) Beginning July 1, 1993, instructors, administrators, and other certified employees shall be employed for one hundred eighty-five (185) days and receive their current twelve (12) month annual salary. Employees required to work more than one hundred eighty-five (185) days per fiscal year shall be paid their daily rate for each additional day worked.

(2) These certified employees shall not earn annual leave, but shall be given three (3) personal leave days per year without loss of salary. Personal leave days shall not accumulate, but any unused personal leave days shall be converted to sick leave at the end of the year. Employees who have accumulated annual leave shall either:

(a) Be reimbursed fully for such accumulated leave at their current daily salary at the time of their termination of employment; or

(b) Be paid at the rate of ten (10) days per year at their current daily rate until reimbursement for all accumulated annual leave is paid, whichever occurs first.

(3) The State Board for Adult and Technical Education shall annually adopt a salary schedule which shall provide for uniformity, recognition of education, teaching, and supervisory experience, and use as a base, the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the salary schedule for administrative responsibilities.

Section 2. KRS 151B.035 is amended to read as follows:

(1) Effective July 1, 1990, all existing staff in the field offices and the state-operated vocational schools and appropriate central office personnel from the Kentucky Department of Education shall be transferred to the Department for Adult and Technical Education. Those individuals with merit status shall be transferred to the department. Those employees who are on probation shall be transferred but shall be subject to completion of the probationary period. Annual, compensatory, and sick leave accrued as of July 1, 1990, shall be transferred with the employees.

(2) The State Board for Adult and Technical Education shall adopt and establish by administrative regulations, personnel policies and procedures for all full-time and part-time unclassified employees, certified and equivalent staff, including administrative, teaching, and supervisory staff in the Department for Adult and Technical Education central office, state-operated vocational facilities, and regional staffs. The regulations shall not become effective until October 1, 1990. All other staff shall remain under the authority of the Kentucky Department of Personnel and KRS Chapter 18A.

(3) As provided in this chapter, the State Board for Adult and Technical Education shall promulgate comprehensive administrative regulations for the administration of a personnel system in the Department for Adult and Technical Education which are consistent with the provisions of this chapter and with federal standards for state government agencies receiving federal grants.

(4) The board shall promulgate comprehensive administrative regulations for full-time and part-time certified and equivalent staff governing:

(a) Establishment and abolishment of positions;

(b) Applications;

(c) Certification;

(d) Classification and compensation plans;

(e) Incentive programs;

(f) Selection of employees;

(g) Types of appointments;

(h) Attendance, including hours of work, compensatory time, and annual, court, military, sick, voting, and special leaves of absence;

(i) Preparation, maintenance, and revision of a position classification plan and an equitable salary schedule for certified and equivalent staff based on qualifications, experience, and responsibilities;

(j) Extent and duration of the Kentucky Tech System school term, use of school days, and extended employment;

(k) Employee evaluations;

(l) Programs to improve the work effectiveness of employees including staff development;

(m) Demotion;

(n) Dismissal;

(o) Layoffs;

(p) Suspensions and other disciplinary measures;

(q) Probationary periods, limited employment status, and continuing employment status;

(r) Promotion;

(s) Transfer;

(t) Appeals; and

(u) Employee grievances and complaints.

(5) (a) Administrative regulations promulgated by the board shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, and after compliance with the provisions of KRS Chapter 13A.

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter.

(c) No administrative body, other than the State Board for Adult and Technical Education shall promulgate administrative regulations governing the subject matters specified in this section.

(d) Policies and procedures for the implementation of administrative regulations shall be developed by the Department for Adult and Technical Education.

(6) The commissioner for adult and technical education shall be the appointing authority with respect to all personnel actions. The commissioner may authorize a designee to act on behalf of the agency with respect to employee appointments, position establishments, payroll documents, reemployment lists, waiver requests, or other position actions. Such designation shall be in writing. Authority to employ personnel may be delegated to the vocational school management by state board policy and procedure. Any recommendation for employment from the local level shall be based on guidelines promulgated by the state board and shall be contingent upon confirmation by the commissioner and the board.

(7) The board shall adopt other administrative regulations to govern its proceedings which relate to certified and equivalent employees and which shall provide for:

(a) The procedures to be utilized by the board in the conduct of hearings;

(b) Discharge, as provided by this section;

(c) Imposition, as a disciplinary measure, of a suspension from service without pay for up to thirty (30) working days and, in accordance with the provisions of KRS 151B.055, for the manner of notification of the employee of the discipline and right of appeal;

(d) Promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, and conduct;

(e) Supplementary information for the salary schedule for certified and equivalent staff including teachers, counselors, administrators, managers, and educational consultants in state-operated vocational technical facilities, field offices and central office in the Department for Adult and Technical Education [~~that shall provide uniformity, recognition of education, teaching, and supervisory experience and use as a base the average salary paid to beginning classroom teachers by all public schools in the state for personnel with comparable qualifications and experience. Indexes may be incorporated in the compensation plan for administrative responsibilities. The salary schedule shall be computed annually, and shall be submitted to and approved by the Governor. The annual percentage increment under the salary schedule shall be at least equal to that provided for other state employees~~];

(f) Reemployment of laid-off employees in accordance with the provisions of this chapter;

(g) Establishment of a plan for resolving employee grievances and complaints. The plan shall not restrict rights granted employees by the provisions of this chapter; and

(h) Such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

(8) The board shall make investigations, either on petition of a citizen, taxpayer, interested party, or on its own motion, concerning the enforcement and effect of KRS 151B.035 to 151B.090, shall require observance of its provisions and the administrative regulations promulgated pursuant to the provisions of this chapter and KRS Chapter 13A, and shall make such investigation as may be requested by the General Assembly or the Governor and to report thereon.

(9) The board shall adopt administrative regulations for a due process hearing and appeal system for aggrieved certified or equivalent employees.

(10) The board shall hear appeals from applicants for positions or from certified, equivalent, and unclassified employees who have been dismissed, demoted, suspended, or otherwise penalized for cause.

(11) The board may, any statute to the contrary notwithstanding, delegate the taking of evidence, and the rendition of a written recommendation of disposition to the full board, to a panel of the board, or to a single member of the board acting as a hearing officer, relative to any hearing appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, however, that the full board as provided by statute, makes the final decision or determination, based upon the evidence submitted.

(12) The board shall promulgate regulations governing the unclassified service including the preparation and maintenance of a salary schedule and other regulations authorized by this chapter.

HB 443, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.345 is amended to read as follows:

(1) The term "teacher" for the purpose of this section means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy shall also address and comply with the following:

(a) Each participating school shall form a school council which shall be composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The parent representatives on the council shall not be relatives of any employee of the school.

(b) The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be selected for one (1) year terms. The parent members shall be elected by the parent members of the parent teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. The principal or head teacher shall be the chair of the school council.

(c) The school council shall have the responsibility to set school policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

(d) All certified staff at a school may be participants in the school-based decision making. The staff shall divide into committees according to their areas of interest, such as, but not limited to, grouped grade levels, subject areas, and special programs. Each committee shall elect by a majority of the committee a chair, who shall serve for a term of one (1) year. The committee shall submit its recommendations to the school council for consideration.

(e) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(f) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(g) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(h) The school council shall determine which instructional materials and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(i) From a list of applicants recommended by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request.

(j) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment, curriculum development, alignment with state standards, technology utilization, and program appraisal within the local school board's policy;

2. Assignment of all instructional and noninstructional staff time;

3. Assignment of students to classes and programs within the school;

4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;

5. Determination of use of school space during the school day;

6. Planning and resolution of issues regarding instructional practices;

7. Selection and implementation of discipline and classroom management techniques, including responsibilities of the student, parent, teacher, counselor, and principal; and

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation and supervision.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and accounting and auditing;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning;

(d) Professional development plans developed pursuant to KRS 156.095 and 156.0951;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies ***which shall include the following procedure. If the board denies the request for waiver, the council may appeal the decision in writing to the chief state school officer. He or his designee shall mediate between the board and the council. If the chief state school officer determines that the issue cannot be resolved satisfactorily, the State Board for Elementary and Secondary Education shall determine whether to grant the waiver***;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council ***which shall include the following procedure. After the appeal process has been exhausted at the local level, an appeal may be filed by any affected party in writing to the chief state school officer and he or his designee shall mediate among those involved.***

If the chief state school officer determines that the matter cannot be resolved satisfactorily, he may recommend that it be brought before the State Board for Elementary and Secondary Education, which shall determine whether to uphold the council's decision.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so. By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice. All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon a favorable vote of a majority of the faculty at the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the State Board for Elementary and Secondary Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall develop sample guidelines to assist local boards in the development of their policies, and the department shall provide professional development activities to assist schools in implementing school-based decision making.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the State Board for Elementary and Secondary Education for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council.

(9) There is hereby established a school council discretionary fund to be administered by the Department of Education and the department shall establish guidelines to be met to qualify for such funds. Each year that school councils are in existence the department shall distribute the funds appropriated to the fund to the schools participating in school-based decision making. The amount of funds received by each participating school shall be determined on a proportionate share basis by considering each participating school's total pupil enrollment. However, schools receiving funds from the Commonwealth school improvement fund under KRS 158.805 shall not be eligible to participate in this fund.

The Committee Amendment No. 1 to **HB 443** is as follows:

Amend printed copy of **HB 443** as follows:

On page 6, line 13, by changing the "." to ":" and by deleting "***If the board***";

On page 6, by deleting lines 14 through 19 in their entirety;

On page 6, line 20, by deleting "***determine whether to grant the waiver***" and inserting in lieu thereof the following:

"1. The board shall afford the council a hearing within thirty (30) days from the date of the request for a waiver of board policy, unless a process of mediation has been initiated.

2. The board shall issue a written decision with its rationale no later than sixty (60) days from the date of the hearing.

3. At any point in the process, the board may initiate a process for mediation or may direct a review and report on the issues, but shall not delay its decision beyond sixty (60) days from the date of the hearing without the agreement of the requesting council";

On page 6, line 25, by changing the "." to ":" and by deleting "***After the appeal process has been exhausted at***";

On page 6, by deleting line 26 and on page 7, by deleting lines 1 through 6 in their entirety, and by deleting on line 7 "***uphold the council's decision***" and inserting in lieu thereof the following:

"***1. An appeal on a decision made by a school council shall first be reviewed by the school council, which shall make a timely response to the appealing party.***

2. If the matter is not resolved by the council, the appealing party may appeal to the board of education within twenty (20) days. The board shall afford the affected parties a hearing within thirty (30) days of the appeal to the board.

3. The board shall issue a written decision with its rationale no later than sixty (60) days after the date of the hearing.

4. At any point in the process, the board may initiate a process for mediation or may direct a review and report on the issues, but shall not delay its decision beyond sixty (60) days from the date of the hearing without the agreement of the affected parties";

On page 9, after line 25, by adding the following:

"Section 2. KRS 156.070 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall have the management and control of the common schools and all programs operated in such schools, including interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for the Blind, and community education programs and services.

(2) The State Board for Elementary and Secondary Education may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations, and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt administrative regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency. The state board or any agency designated by the state board to manage interscholastic athletics shall not promulgate rules, administrative regulations, or bylaws which prohibit pupils in grades seven (7) to eight (8) from participating in high school sports or from participating on more than one (1) school-sponsored team at the same time in the same sport.

(3) (a) The State Board for Elementary and Secondary Education is hereby authorized to lease from the State Property and Buildings Commission, or others, whether public or private, any lands, buildings, structures, installations, and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. The lease may be for any initial term commencing with the date of the lease and ending with the next ensuing June 30, which is the close of the then current fiscal biennium of the Commonwealth, with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the State Property and Buildings Commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which the State Property and Buildings Commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring the television and related facilities, with appurtenances, and costs as may be incident to the issuance of the bonds.

(b) Each option of the State Board for Elementary and Secondary Education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the General Assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the State Property and Buildings Commission in writing, signed by the chief state school officer, and delivered to the secretary of the Finance and Administration Cabinet as a member of the commission; provided, however, that the option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the Finance and Administration Cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The State Board for Elementary and Secondary Education shall not itself operate leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the chief state school officer and the Department of Education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to the reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board the State Property and Buildings Commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any lease and to the cost of providing for the operation of the television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises, and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state board may, on the recommendation and with the advice of the chief state school officer, prescribe, print, publish, and distribute at public expense such administrative regulations, courses of study, curriculums, bulletins, programs, outlines, reports, and placards as each deems necessary for the efficient management, control, and operation of the schools and programs under its jurisdiction. All administrative regulations published or distributed by the board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the chief state school officer or his designee, the state board shall establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets, and all other matters which are the administrative responsibility of the Department of Education.

(6) The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, may hear and advise local school districts and affected parties when disputes arise. However, recommendations made by the State Board for Elementary and Secondary Education shall not be binding on the districts and parties."

HB 787, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Each state university shall institute English language, proficiency assessment for all instructors, including teaching assistants, for whom English is not their primary language. The instructors shall be evaluated periodically to demonstrate their ability to deliver all lectures and oral presentations in an English speech pattern which the students understand.

(2) Subsection (1) of this section shall not apply to the teaching of foreign language courses.

(3) If an instructor receives an unsatisfactory evaluation he shall have one (1) semester to demonstrate his ability. If an instructor receives a second unsatisfactory evaluation, his employment shall be terminated.

HB 849, AN ACT relating to the PACE program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.360 is amended to read as follows:

(1) The State Board for Adult and Technical Education shall authorize grants to selected local school districts in areas of greatest educational and economic need, for developing and providing model programs of instruction for preschool children and their parents.

(2) Parents participating shall be instructed in basic academic skills, while their preschoolers work with an early childhood specialist on developmental skills.

(3) Parenting skills and other planned, structured activities involving parents and children shall be a part of the curriculum.

(4) Only those parents who have a ***preschool child*** three (3) ***years of age or older who is not enrolled in a public school program,*** [~~or four (4) year old child~~] and ***who*** do not possess a high school diploma or ***who test below an eleventh grade level*** [~~high school equivalency certificate~~] shall be eligible.

(5) Local education agencies shall be ***given first priority*** [~~eligible~~] for funds if the percentage of adults not graduating from high school exceeds fifty percent (50%) in the county or district. Selection for grant awards shall be based on the educational need of the adult population***,*** [~~and~~] the incidence of unemployment***, and the percentage of elementary school children eligible for free or reduced priced meals*** in the county or district. ***Priority shall also be given to local education agencies implementing family resource centers pursuant to KRS 156.497 and located in counties implementing the job opportunities and basic skills program as established by the federal Family Support Act of 1988.***

(6) Each grant proposal shall include a plan for providing the following:

(a) Identification and recruitment of eligible participants;

(b) Screening and preparation of parents and children for participation to include testing, referral to necessary counseling, and related services;

(c) Transportation, lunch, and free general education development testing for program participants;

(d) Instructional programs that promote adult basic academic skills, equip parents to provide the needed support for the education and growth of their children, and prepare children for success in regular programs; [~~and~~]

(e) Certification of the eligibility and enrollment of a minimum of ten (10) with a maximum of fifteen (15) parents with their children***;***

(f) Coordination with family resource centers pursuant to KRS 156.497, preschool programs for children at risk of educational failure pursuant to KRS 157.3175, and preschool programs for handicapped children pursuant to KRS 157.226; and

(g) Coordination with the job opportunities and basic skills program established pursuant to the federal Family Support Act of 1988.

(7) Local education agencies may blend this program with other programs if the grant proposal meets all criteria set out in subsection (6) and if funds from the blended programs are not allocated for duplicative services and enrollment numbers are not duplicated in the blended programs.

HR 132, A RESOLUTION confirming the appointment of Wade Mountz as a member of the State Board for Elementary and Secondary Education.

WHEREAS, KRS 156.029 specifies that a State Board for Elementary and Secondary Education composed of eleven members appointed by the Governor, subject to confirmation by the Senate and the House of Representatives, shall be established for the purposes of developing and adopting policies and administrative regulations by which the Department of Education shall be governed; and

WHEREAS, by Executive Order 92-156, Governor Brereton C. Jones reappointed Wade Mountz as a member of the State Board for Elementary and Secondary Education representing the state at large for a term expiring on April 14, 1996; and

WHEREAS, the House of Representatives finds that Wade Mountz meets the requirement of KRS 156.029 not to be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives, pursuant to KRS 156.029, does hereby confirm the appointment of Wade Mountz as a member of the State Board for Elementary and Secondary Education to serve a term expiring on April 14, 1996.

Section 2. That the Clerk of the House of Representatives shall forward a copy of this Resolution to Wade Mountz, 9 Muirfield Place, Louisville, Kentucky 40222, and to the Office of the Governor of the Commonwealth of Kentucky.

HR 133, A RESOLUTION confirming the appointment of Deborah B. Morrow as a member of the State Board for Elementary and Secondary Education.

WHEREAS, KRS 156.029 specifies that a State Board for Elementary and Secondary Education composed of eleven members appointed by the Governor, subject to confirmation by the Senate and the House of Representatives, shall be established for the purposes of developing and adopting policies and administrative regulations by which the Department of Education shall be governed; and

WHEREAS, on February 14, 1992, Governor Brereton C. Jones appointed Deborah B. Morrow as a member of the State Board for Elementary and Secondary Education representing the state at large for a term expiring on April 14, 1996; and

WHEREAS, the House of Representatives finds that Deborah B. Morrow meets the requirement of KRS 156.029 not to be engaged as a professional educator;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives, pursuant to KRS 156.029, does hereby confirm the appointment of Deborah B. Morrow as a member of the State Board for Elementary and Secondary Education to serve a term expiring on April 14, 1996.

Section 2. That the Clerk of the House of Representatives shall forward a copy of this Resolution to Deborah B. Morrow, 166 West McLaughlin Avenue, Madisonville, Kentucky 42431, and to the Office of the Governor of the Commonwealth of Kentucky.

SB 51, AN ACT relating to the deaf and hard of hearing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.500 is amended to read as follows:

The "deaf" and "hard of hearing" [~~"Hearing impaired"~~] are persons who have hearing disorders[~~, including deafness~~]. They are people who cannot hear and understand speech clearly through the ear alone, with or without hearing aids.

Section 2. KRS 163.506 is amended to read as follows:

(1) The Commission on the Deaf and ***Hard of*** Hearing [~~Impaired~~] shall consist of:

(a) Seven (7) members appointed by the Governor as follows:

1. One (1) audiologist chosen from a list of three (3) names submitted by the Kentucky Speech and Hearing Association;

2. Three (3) ***hard of*** hearing [~~impaired~~] or deaf persons chosen from a list of six (6) names submitted by the Kentucky Association of the Deaf;

3. One (1) deaf or ***hard of*** hearing [~~impaired~~] person chosen from a list of three (3) names submitted by the Kentucky Chapter of the Alexander Graham Bell Association for the Deaf, the initial appointment to be or a one (1) year term;

4. One (1) person chosen from a list of three (3) names submitted by the Kentucky members of Self Help for Hard of Hearing People, the initial appointment to be for a two (2) year term;

5. One (1) deaf or ***hard of*** hearing [~~impaired~~] person chosen from a list of three (3) names submitted by the American Association of Retired Persons, the initial appointment to be for a two (2) year term;

(b) One (1) representative of the Cabinet for Human Resources appointed by the secretary;

(c) The secretary of the Education and Humanities Cabinet or his designee;

(d) The president of the Kentucky Association for the Deaf or his designee;

(e) The president of the Kentucky Registry of Interpreters for the Deaf or his designee; and

(f) Three (3) persons appointed by the Commission on the Deaf and ***Hard of*** Hearing [~~Impaired~~] as constituted in subsections (1)(a) through (1)(e) of this section, appointed as follows:

1. One (1) parent of a ***hard of*** hearing [~~impaired~~] or deaf child;

2. One (1) representative of a private organization providing consistent services to the deaf and ***hard of*** hearing [~~impaired~~]; and

3. One (1) member at large.

(2) All members shall serve three (3) year terms except state officials or their designees who shall serve during their terms of office. Of the members appointed pursuant to subsections (1)(a)2. through (1)(a)5. and subsection (1)(f) of this section, no more than three (3) of those members shall have terms beginning in the same year. Any person who is a member of the commission on July 13, 1990, shall serve until he resigns or until his term expires.

(3) Each member of the commission [~~shall receive twenty-five dollars ($25) per day for attending each meeting and~~] shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties.

Section 3. KRS 163.510 is amended to read as follows:

(1) The commission shall advise the Governor and the General Assembly concerning policy and programs to enhance the quality and coordination of services for the deaf and ***hard of*** hearing [~~impaired~~].

(2) The commission shall cooperate with and assist local, state and federal governments and public and private agencies in the development of programs for the deaf and ***hard of*** hearing [~~impaired~~].

(3) The commission shall review legislative programs relating to services to deaf and ***hard of*** hearing [~~impaired~~] persons and shall conduct studies of conditions affecting the health and welfare of the deaf and ***hard of*** hearing [~~impaired~~].

(4) The commission shall oversee the provision of interpreter services to the deaf and ***hard of*** hearing [~~impaired~~], and may provide [~~such~~] services if necessary.

Section 4. KRS 163.515 is amended to read as follows:

(1) The commission shall employ an executive director who shall serve at the pleasure of the commission. The executive director shall be familiar with the problems of the deaf and ***hard of*** hearing [~~impaired~~].

(2) Subject to the approval of the commission, the executive director shall:

(a) Employ clerical and other staff assistance;

(b) Prepare an annual report on the status of services to the deaf and ***hard of*** hearing [~~impaired~~];

(c) Promote the training of interpreters for the deaf and ***hard of*** hearing [~~impaired~~];

(d) Identify public and private agencies that provide services to the deaf and ***hard of*** hearing [~~impaired~~] and cooperate in the coordination and development of these services;

(e) Survey the needs and compile a census of the deaf and ***hard of*** hearing [~~impaired~~].

Section 5. KRS 30A.400 is amended to read as follows:

(1) Any judge of any court may appoint an interpreter for any party, witness, or for any other appropriate individual in any matter properly before the court over which he presides and may authorize payment for [~~such~~] an interpreter out of the State Treasury.

(2) ***If*** [~~In the event that~~] a person has been detained in police custody or has been arrested, an interpreter shall be provided prior to any interrogation or taking of a statement from the person ***if*** [~~provided~~] the court determines he meets the criteria set forth in KRS 30A.410.

(3) Any statement made by a person who is entitled to the services of an interpreter under subsection (2) of this section to a law enforcement officer may be used as evidence against that person only if the statement was made, offered, or elicited in the presence of a qualified interpreter. This subsection shall ***not*** [~~in no way~~] deny a person the right to make a voluntary confession.

(4) If the judge, or any other person, believes that a person claiming to be entitled to an interpreter may not actually be deaf or ***hard of*** hearing [~~impaired~~], unable to communicate in English, or otherwise not entitled to ***the*** [~~such~~] services, the judge may, on good cause shown, hold a hearing to determine the extent of the person's handicap or disability and the bona fide need for interpreting services.

(5) If it is determined that the person is not entitled to ***these*** [~~such~~] services no portion of KRS 30A.425 to 30A.435 shall apply to him.

Section 6. KRS 30A.405 is amended to read as follows:

(1) Any person appointed as interpreter for any matter before the Court of Justice shall be qualified by training or experience for the interpreting function which he is to discharge and shall meet, where applicable, all requirements established for ***the*** [~~such~~] position.

(2) The Supreme Court may prescribe standards for appointment, qualifications, duties, and other matters relating to interpreters. In the area of providing interpreters for persons ***who are deaf or hard of*** [~~with~~] hearing [~~impairments~~] as described under KRS 30A.410(1)(a), ***the*** [~~such~~] standards may be promulgated after consulting with the Kentucky Registry of Interpreters of the Deaf and the Kentucky School for the Deaf.

(3) ***These*** [~~Such~~] rules, regulations, and standards shall be administered by the Administrative Office of the Courts.

Section 7. KRS 30A.410 is amended to read as follows:

(1) At any stage of any criminal, juvenile, or mental inquest case, or any grand jury proceeding, including probation and parole proceedings, a qualified interpreter or interpreters, to be paid out of the State Treasury, shall be provided for the following categories of persons whether they are parties or witnesses:

(a) Persons who because of deafness or ***hard of*** [~~a~~] hearing [~~impairment~~] have difficulty in readily understanding or communicating in the written or spoken English language;

(b) Persons who cannot communicate in English; and

(c) Any other person who has, in the opinion of the court, another type of disability which will prevent him from properly understanding the nature of the proceedings or substantially prejudice his rights.

(2) Upon request of the person for whom the interpreter is appointed, or on the court's own motion, an interpreter may be removed for inability to communicate with the person, or if for reasonable cause another interpreter is so desired by the person for whom the interpreter is appointed, or because the services of an interpreter are not desired by the person. If no qualified interpreter can be found who can successfully communicate with this person, he may select his own interpreter without regard to whether ***the*** [~~such~~] interpreter is "qualified" within the meaning set forth under KRS 30A.405.

(3) For the purposes of KRS 30A.400 to 30A.435, the following terms shall mean:

(a) "Mental inquest" means any hearing or proceeding in which a person included in subsection (1) of this section, is involved which is held to determine that person's sanity, mental capacity, or developmental level, for legal purposes whether held to commit, change the circumstances of commitment, or to release that person.

(b) An "interpreter", in case of an individual coming within the protection of this section, means a person [~~or persons~~] who ***translates*** [~~translate~~] written and oral communications or ***interprets*** [~~interpret~~] communication [~~in such a manner~~] as to effectively transmit information to the individual.

Section 8. KRS 100.982 is amended to read as follows:

As used in KRS 100.982 to 100.984, unless the context otherwise requires:

(1) "Handicapped person" means a person with a physical, emotional, or mental disability, including, but not limited to, mental retardation, cerebral palsy, epilepsy, autism, ***deafness or hard of*** hearing, [~~and~~] sight impairments, and orthopedic impairments, but not including convicted felons or misdemeanants on probation or parole or receiving supervision or rehabilitation services as a result of their prior conviction, or mentally ill persons who have pled guilty but mentally ill to a crime or not guilty by reason of insanity to a crime. "Handicapped person" does not include persons with current, illegal use of or addiction to alcohol or any controlled substance as regulated under KRS Chapter 218A.

(2) "Residential care facility" means a residence operated and maintained by a sponsoring private or governmental agency to provide services in a homelike setting for handicapped persons.

(3) "Services" means, but is not limited to, supervision, shelter, protection, rehabilitation, personal development, and attendant care.

Section 9. KRS 164.478 is amended to read as follows:

(1) It is the intent of the General Assembly to increase the educational level of ***deaf and hard of*** hearing [~~impaired~~] persons by assuring them an equal opportunity to obtain an education in the public institutions of higher education.

(2) The public institutions of higher education shall make their programs accessible to ***deaf and hard of*** hearing [~~impaired~~] students by providing support services necessary for such students to fully participate in the programs. The support services shall include, but not be limited to, interpreters and notetakers in the classroom, and equal access to all support services available to those who are not ***deaf or hard of*** hearing [~~impaired~~]. Appropriate emergency warning devices shall be available in dormitories housing ***deaf or hard of*** hearing [~~impaired~~] students.

(3) (a) Primary funding for support services at the institutions, excluding costs of capital equipment or modifications for installation of warning devices, shall come from vocational rehabilitation funds pursuant to KRS 151B.185 to 151B.195 and subject to the restrictions and requirements for such services set forth in the federally-approved state plan for vocational rehabilitation services. The institutions of higher education and the office of vocational rehabilitation shall cooperate to assure that funds are used to effectively provide support services for ***deaf or hard of*** hearing [~~impaired~~] students.

(b) The General Assembly shall appropriate funds to the Council on Higher Education to cover the costs of support services at the institutions for residents of Kentucky who are ***deaf or hard of*** hearing [~~impaired~~] students and who do not qualify for support services from vocational rehabilitation funding or other sources of funding. The funds shall be distributed to institutions based upon actual costs of providing support services to individual students.

(c) The provision of support services to a ***deaf or hard of*** hearing [~~impaired~~] student shall not be refused or delayed because of a disagreement between the institution and the Office of Vocational Rehabilitation as to who is responsible for funding. In such case it shall be the responsibility of the institution to provide the services and resolve the disagreement.

Section 10. KRS 164.4781 is amended to read as follows:

By the beginning of the 1986-87 school year, there shall be an interpreter training program at one (1) public institution of higher education to ensure that qualified interpreters are available to meet the needs of ***deaf and hard of*** hearing [~~impaired~~] students attending the institutions of higher education. The Council on Higher Education shall select an institution which has demonstrated expertise in training interpreters and is currently providing support services for ***deaf and hard of*** hearing [~~impaired~~] students to develop and offer the training program. The program ***shall*** [~~must~~] lead to a minimum of an associate degree in interpreting. By the beginning of the 1987-88 school year, the university shall implement an extension interpreter training program which shall move to different sites throughout the state from year to year. These programs shall be exempt from the normal student load requirements for a period of ten (10) years or until it can be clearly demonstrated that an adequate supply of interpreters is available in all parts of the state, whichever is later.

Section 11. KRS 167.210 is amended to read as follows:

As used in KRS 167.210 to 167.240, unless the context otherwise requires, "deaf-blind children" are those children who ***are deaf or hard of hearing and*** have [~~auditory and~~] visual impairments, the combination of which causes such severe communication, developmental, and educational problems that they cannot profit satisfactorily from educational programs provided solely for the visually handicapped child or for the hearing handicapped child.

Section 12. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and KRS 213.046 unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Certificate" means the certificate of birth required by KRS 213.046;

(3) "Commission" means the Commission for Handicapped Children;

(4) "***Hard of hearing*** [~~hearing-impaired~~] infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(5) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss;

(6) "High risk infant" means a child at birth who is at a higher risk than normal of being ***hard of*** hearing [~~impaired~~] due to one (1) or more of the following factors present at birth:

(a) Family history of a congenital hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose, or throat anomalies;

(d) Below normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea; and

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration.

Section 13. KRS 211.647 is amended to read as follows:

(1) The commission on receipt of the hearing risk certificates from the cabinet, shall conduct activities necessary to identify high risk infants. It shall establish a program to provide medical and educational information to the families, assist the families in securing screening, diagnostic, and medical services at a minimal cost at a center or at a location as close to the child's residence as possible and refer the parents to agencies or organizations which provide educational programs for the child and the family.

(2) The commission's process for identifying high risk infants shall include a timely review of all hearing risk certificates to identify the presence of factors determined to occur frequently with hearing loss in newborn infants. The commission ***shall*** [~~will~~] secure information missing from certificates which is relevant to identifying high risk infants.

(3) The commission shall involve agencies and organizations which provide services to deaf and ***hard of hearing*** [~~hearing-impaired~~] children, including, but not limited to, the Department of Education, the Cabinet for Human Resources and the Commisson on the Deaf and ***Hard of*** Hearing [~~Impaired~~], in planning for and implemention of this section. Cumulative demographic data of identified high risk infants shall be made available to agencies and organizations requesting ***the*** [~~such~~] information for planning purposes.

Section 14. KRS 213.011 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Dead body" means a human body or [~~such~~] parts of ***the*** [~~such~~] human body from the condition of which it reasonably may be concluded that death recently occurred;

(3) "Fetal death" means death prior to the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy; the death is indicated by the fact that after such expulsion or extraction the fetus does not breathe or show any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles. This definition shall exclude induced termination of pregnancy;

(4) "File" means the presentation of a vital record provided for in this chapter for registration by the Office of Vital Statistics;

(5) "Final disposition" means the burial, interment, cremation, removal from the Commonwealth, or other authorized disposition of a dead body or fetus;

(6) "Induced termination of pregnancy" means the purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus and which does not result in a live birth. This definition shall exclude management of prolonged retention of product of conception following fetal death;

(7) "Institution" means any establishment, public or private, which provides in-patient medical, surgical, or diagnostic care or treatment or nursing, custodial, or domicilary care, or to which persons are committed by law;

(8) "Live birth" means the complete expulsion or extraction from its mother of a product of human conception, irrespective of the duration of pregnancy which, after ***the*** [~~such~~] expulsion or extraction, breathes, or shows any other evidence of life such as beating of the heart, pulsation of the umbilical cord, or definite movement of voluntary muscles, whether or not the umbilical cord has been cut or the placenta is attached;

(9) "Provisional death certificate" means an interim certificate identifying the deceased and authorizing a funeral director, or person acting as such, to take custody of the body and, except for cremation, to make final disposition;

(10) "Registration" means the acceptance by the Office of Vital Statistics and the incorporation of vital records provided for in this chapter into its official records;

(11) "System of vital statistics" means the registration, collection, preservation, amendment, and certification of vital records and the collection of other reports required by this chapter;

(12) "Secretary" means the secretary for human resources;

(13) "Sudden infant death syndrome" means the death of an ostensibly healthy child who is two (2) weeks of age or older but less than three (3) years of age, which occurs suddenly and unexpectedly, with no known or apparent cause, and which remains unexplained after the performance of an autopsy;

(14) "Vital records" means certificates or reports of birth, death, fetal death, marriage, dissolution of marriage, or annulment, and data related thereto;

(15) "Vital statistics" means the data derived from certificates and reports of birth, death, fetal death, induced termination of pregnancy, marriage, dissolution of marriage, and related reports;

(16) "Certificate" means the certificate of birth, death, fetal death, marriage, dissolution of marriage, or annulment as required by this chapter;

(17) "Commission" means the Commission for Handicapped Children;

(18) "***Hard of hearing*** [~~Hearing impaired~~] infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(19) "Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss.

Section 15. KRS 278.547 is amended to read as follows:

As used in this section, KRS 278.548, and 278.549, unless the context requires otherwise:

(1) "Telecommunications device for the deaf" or "TDD" means a keyboard mechanism attached to a standard telephone set which allows for messages to be typed rather than spoken.

(2) "Dual party relay service" means a procedure by which a ***hard of hearing*** [~~hearing-impaired~~] or speech-impaired TDD user can communicate with an intermediary party, who then verbally relays the first party's message or request to a third party, or vice versa. The service includes the switching, transmitting, and the voice and typed translation of calls but does not include the furnishing of TDDs or other telecommunication devices to users of the system.

Section 16. KRS 278.548 is amended to read as follows:

The commission shall establish a program to make dual party relay services available not later than October 1, 1991. The dual party relay service shall be operated seven (7) days a week for twenty-four (24) hours per day for all ***hard of hearing*** [~~hearing-impaired~~] or speech-impaired telephone subscribers within the Commonwealth. In order to determine the most cost effective method of providing dual party relay services that will meet the requirements of the ***hard of hearing*** [~~hearing-impaired~~] and speech-impaired, the commission shall initiate an investigation, conduct public hearings, and solicit the advice and counsel of ***hard of hearing*** [~~hearing-impaired~~] persons and speech-impaired persons and the organizations serving them.

Section 17. KRS 344.500 is amended to read as follows:

(1) Any person who is deaf, mute or both or who because of a [~~hearing,~~] speaking or other impairment ***or who is hard of hearing, and*** has difficulty in communicating with other persons shall be entitled to the assistance and services of a qualified interpreter.

(2) A qualified interpreter shall be appointed in any proceeding before a board, commission, agency, or licensing authority of the state or any of its political subdivisions, when the principal party in interest or a witness is deaf, mute, or both.

(3) No person shall be appointed as an interpreter pursuant to this section unless the appointing authority makes a preliminary determination that the interpreter is able to readily communicate with the person who is deaf, mute, or both, and is able to accurately repeat and translate the statements of ***the*** [~~said~~] person, and the appointee is agreed to by the person who is deaf, mute, or both.

(4) Upon the request of the appointing authority, the Kentucky Registry of Interpreters for the Deaf, or the Kentucky School for the Deaf, shall recommend qualified interpreters to assist a person who is deaf, mute, or both.

(5) The appointing authority shall set the compensation for each day the interpreter is in attendance. The compensation, plus any reasonable expenses incurred by the interpreter, shall be paid from the funds of the appointing authority.

SB 74, AN ACT relating to the State Board for Elementary and Secondary Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.071 is amended to read as follows:

The State Board for Elementary and Secondary Education may, any statute to the contrary notwithstanding, delegate the taking of evidence, and the rendition of a written recommendation of disposition to the full board, to a panel of the board, [~~or~~] to a single member of the board acting as a hearing officer, ***or to a hearing officer appointed by the board*** relative to any hearing, appeal, or decision, judicial or quasi-judicial in nature, which the board is empowered or directed, by this or any other chapter, to conduct, hear, or make; provided, the full board, as provided by statute, makes the final decision or determination, based upon the evidence submitted. ***For the purpose of serving as a hearing officer for the board, the board and the Department of Education shall not enter into a personal service contract; employ additional staff; or provide additional compensation to existing staff, except for compensatory time for staff who conduct school facility public hearings outside of their regular working hours.***

SB 75, AN ACT relating to the Effective Instructional Leadership Act.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.101 is amended to read as follows:

(1) The purpose of this section is to encourage and require the maintenance and development of effective instructional leadership in the public schools of the Commonwealth and to recognize that principals with the assistance of assistant principals, supervisors of instruction, guidance counselors, and directors of special education have the primary responsibility for instructional leadership in the schools to which they are assigned.

(2) For the purpose of this section, instructional leader shall be defined as an employee of the public schools of the Commonwealth holding a valid certificate as a principal, assistant principal, supervisor of instruction, guidance counselor, or director of special education.

(3) In order to carry out the purpose of this section, the State Board for Elementary and Secondary Education shall establish a statewide program to improve and maintain the quality and effectiveness of instructional leadership in the public schools of the Commonwealth.

(4) The instructional leader improvement program shall contain the following provisions:

(a) Each instructional leader employed by the public schools of the Commonwealth shall participate in a continuing intensive training program designed especially for instructional leaders;

(b) Every two (2) years each instructional leader shall complete an intensive training program approved by the State Board for Elementary and Secondary Education to include no less than forty-two (42) participant hours of instruction;

(c) The State Board for Elementary and Secondary Education shall prescribe specific criteria for the training program and may contract for the training with qualified agencies or institutions; and

(d) Completion of the required participant hours shall be reported to the State Department of Education and to the local school district. If an instructional leader fails to complete the required hours of training, he shall be placed on probation for one (1) year and, if the training is not completed during the probationary period, his certificate shall be revoked.

(5) As a means of improving the educational productivity of Kentucky's public schools, of providing a method by which the citizens of the Commonwealth can be assured of measures of accountability of the performance of certified school employees, and of providing encouragement and incentives for certified school employees to improve their performance, the State Board for Elementary and Secondary Education shall establish a statewide program for improving the performance of all certified school personnel, including instructional leaders.

(6) The certified employee evaluation programs shall contain the following provisions:

(a) Each certified school employee, including the superintendent, shall be evaluated by a system developed by the local school district and approved by the State Board for Elementary and Secondary Education;

(b) The local school district shall annually review the evaluation plan to insure compliance with this section. Revisions to the evaluation plan shall be approved by the State Board for Elementary and Secondary Education; and

(c) The State Board for Elementary and Secondary Education shall develop written guidelines for local school districts to follow in developing and implementing an evaluation system and shall require the following:

1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;

2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator;

3. All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;

4. Evaluation shall include a conference between the evaluator and the person evaluated;

5. Evaluators shall be trained, tested, and certified in accordance with regulations adopted by the State Board for Elementary and Secondary Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;

6. The evaluation system shall include a plan whereby the person evaluated is given assistance for becoming more proficient as a teacher or administrator; and

7. The training requirement for evaluators contained in subsection (6)(c)5. of this section shall not apply to district board of education members.

(7) The State Department of Education shall [~~regularly, and at least yearly,~~] visit [~~every~~] school ***districts*** [~~district~~] within the Commonwealth ***as needed*** to review and insure implementation of the evaluation system by the local school district. The department shall establish an appeals procedure for certified school employees who feel that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personal evaluations.

(8) The State Department of Education shall select and train evaluators from outside each local school district to conduct [~~annual~~] evaluations ***as needed*** of a sample of certified school employees within each district in order to validate the effectiveness and accuracy of the local school districts' evaluators.

(9) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall be exempt from the requirements of this section except for subsection (10) of this section provided they meet the standards established by the State Board for Elementary and Secondary Education for local school district evaluation systems.

(10) The local board of education shall establish an evaluation appeals panel for certified personnel which shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation.

(11) This section shall be known as the "Effective Instructional Leadership Act."

SB 78, AN ACT relating to assessment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.6453 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall be responsible for creating and implementing a statewide, primarily performance-based assessment program to ensure school accountability for student achievement of the goals set forth in KRS 158.645. The program shall be implemented as early as the 1993-94 school year but no later than the 1995-96 school year. The board shall also be responsible for administering an interim testing program to assess student skills in reading, mathematics, writing, science, and social studies in grades four (4), eight (8), and twelve (12). The tests shall be designed to provide the state with national comparisons and shall be the same as, or similar to those used by the National Assessment of Educational Progress. The interim testing program shall begin during the 1991-92 school year and shall be administered to a sample of students representative of each school and the state as a whole. The test scores shall be used, along with other factors described in KRS 158.6451, to establish a baseline for determining school success during the 1993-94 school year.

(2) Upon July 13, 1990, the state board shall contract with three (3) or more authorities in the field of performance assessment to design the specifications for the interim and full-scale statewide assessment development effort. The bid specifications shall include requirements that the successful bidder:

(a) Be a consultant to the Council on School Performance Standards as it develops the educational outcomes expected of students;

(b) Direct the development of the interim and full-scale assessment program; and

(c) Direct the development of the formula to be used to determine successful schools pursuant to KRS 158.6455.

The assessment authorities shall review the bids and make a recommendation to the board. The authorities shall have no pecuniary interest with the successful bidder.

(3) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. ***The Department of Education shall establish and annually update a list of all commercial standardized tests, except those designed for individual administration, approved for use by the local school districts. The department shall include, but not be limited to, the following criteria for identifying approved tests:***

(a) Alignment of the test's objectives with the valued outcomes and curricular framework established in KRS 158.6451;

(b) Adherence to technical accuracy and standards of testing practice;

(c) Degree to which tests are performance-based; and

(d) Other characteristics determined appropriate by the state board.

A district may seek approval from the chief state school officer to use a test not on the list.

(4) By October 1 of each year, local boards of education shall publish in the newspaper with the largest circulation in the county an annual performance report on district ***and school*** accomplishments and activities pertaining to performance goals including, but not limited to, retention rates and student performance, the districts' goals for the succeeding year, and other items as may be set forth in State Board for Elementary and Secondary Education administrative regulations.

The Committee Amendment No. 1 to **SB** 78 is as follows:

Amend printed copy of **SB** 78/**GA** as follows:

On page 3, line 17, by deleting "***and school***".

SB 82, AN ACT relating to the reorganization of the Department of Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner of education shall be the chief executive of the Department of Education. The commissioner shall be responsible for administering, structuring, and organizing the department and its services including, but not limited to, the following:

(a) Technical assistance with curriculum design, school administration and finance, computer and technology services, media services, community education, secondary vocational education, education for exceptional children, and professional development;

(b) Compensatory education;

(c) Research and planning, which shall include, but not be limited to, a statewide research and development effort to identify or develop the best educational practices to be used in the public schools of the Commonwealth. Appropriations for this purpose may be used within the department or for contracting with other individuals, agencies, universities, laboratories, or organizations;

(d) Kentucky School for the Blind and the Kentucky School for the Deaf;

(e) Performance and outcome assessments;

(f) Monitoring the management of school districts, including administration and finance, implementation of state laws and regulations, and student performance; and

(g) Implementing state laws and the policies promulgated by the State Board for Elementary and Secondary Education and the Education Professional Standards Board.

(2) The commissioner of education shall head the Department of Education and perform all statutory functions, duties, and responsibilities as set forth in KRS 156.148 and all other applicable statutes, and the office of the commissioner shall be composed of the following major assistants and administrative bodies:

(a) The chief of staff, who shall report directly to, and be appointed at the deputy commissioner level by, the commissioner of education;

(b) The deputy commissioner for learning support services, who shall report directly to, and be appointed by, the commissioner of education;

(c) The deputy commissioner for learning results services, who shall report directly to, and be appointed by, the commissioner of education;

(d) The deputy commissioner for management support services, who shall report directly to, and be appointed by, the commissioner of education;

(e) The policy coordinator and assistant secretary to the State Board, who shall report directly to the chief executive assistant, and be appointed by the commissioner of education;

(f) The chief executive assistant, who shall report directly to, and be appointed by, the commissioner of education; and

(g) The State Board For Elementary and Secondary Education, as established by KRS 156.029, which is attached for administrative purposes.

(3) The Office of Communication Services is created, and shall be headed by an associate commissioner, who shall report to the chief of staff, and who shall be appointed by the commissioner of education. The office shall be responsible for planning, organizing, and implementing departmentwide public information media services, including print and nonprint, awards, recognition, and other community programs and services, and shall consist of the following divisions:

(a) The Division of Media Services, headed by a division director appointed by the commissioner of education;

(b) The Division of Public Information, headed by a division director appointed by the commissioner of education; and

(c) The Division of Awards and Recognition, headed by a division director appointed by the commissioner of education.

(4) The Office of Legal Services is created, and shall be headed by an associate commissioner who shall report to the chief of staff, and who shall be appointed by the commissioner of education. The office shall be responsible for in-house legal counsel for the Department of Education.

(5) The Office of Education Technology is created, and shall be headed by an associate commissioner who shall report to the chief of staff, and who shall be appointed by the commissioner of education. The office shall be responsible for staff support for the Council for Education Technology, established by KRS 156.665.

(6) The Division of Fiscal and Strategic Planning and the Division of External Liaison Services are created, each to be headed by a division director appointed by the commissioner of education, and each reporting directly to the chief of staff.

(7) The Office of Internal Administration is created, and shall be headed by an associate commissioner, who shall report to the deputy commissioner for management support services, and who shall be appointed by the commissioner of education. The office shall be responsible for direct internal administrative support activities, including finance, purchasing, program financial monitoring, printing, personnel, and other support activities, and shall consist of the following divisions:

(a) The Division of Financial Services, headed by a division director appointed by the commissioner of education;

(b) The Division of Personnel Services, headed by a division director appointed by the commissioner of education; and

(c) The Division of Administrative Services, headed by a division director appointed by the commissioner of education.

(8) The Office of District Support Services is created, and shall be headed by an associate commissioner who shall report to the deputy commissioner for management support services, and who shall be appointed by the commissioner of education. The office shall be responsible for providing direct monitoring and management services to local school districts in such areas as finance and budgeting, facilities construction and management, transportation, food services, and attendance accounting, and shall consist of the following divisions and administrative bodies:

(a) The Division of Finance, headed by a division director appointed by the commissioner of education;

(b) The Division of Facilities Management, headed by a division director appointed by the commissioner of education;

(c) The Division of School and Community Nutrition Services, headed by a division director appointed by the commissioner of education; and

(d) The Division of Pupil Transportation, headed by a division director appointed by the commissioner of education.

(9) The Office of Management Information Services is created, and shall be headed by an associate commissioner who shall report to the deputy commissioner for management support services, and who shall be appointed by the commissioner of education. The office shall be responsible for planning, organizing, and directing computer operational and technical support services for internal applications and specified local district support technologies, and shall consist of the following divisions:

(a) The Division of Computer Operations, headed by a division director appointed by the commissioner of education; and

(b) The Division of Technology Integration, headed by a division director appointed by the commissioner of education.

(10) The Office of Learning Programs Development is created, and shall be headed by an associate commissioner who shall report to the deputy commissioner for learning support services, and who shall be appointed by the commissioner of education. The office shall be responsible for designing, developing, and integrating a curriculum framework and programs established by the Kentucky Education Reform Act of 1990, including, but not limited to, professional development, the primary program, and student well-being, and shall consist of the following divisions and administrative bodies:

(a) The Division of Professional Development, headed by a division director appointed by the commissioner of education;

(b) The Division of Curriculum Development, headed by a division director appointed by the commissioner of education;

(c) The Division of Instructional Technology, headed by a division director appointed by the commissioner of education;

(d) The Division of School-Based Decision Making, headed by a division director appointed by the commissioner of education;

(e) The Division of Early Childhood, headed by a division director appointed by the commissioner of education;

(f) The Division of Special Learning Needs, headed by a division director appointed by the commissioner of education;

(g) The Division of Student and Family Support Services, headed by a division director appointed by the commissioner of education;

(h) The advisory committee on writing, established by KRS 158.770, which is attached for administrative purposes; and

(i) The State Textbook Commission, established by KRS 156.405, which is attached for administrative purposes.

(11) The Office of Regional Service Centers is created, and shall be headed by an associate commissioner who shall report to the deputy commissioner for learning support services, and who shall be appointed by the commissioner of education. The office shall be responsible for implementing, encouraging, and supporting instructional programs through regional centers staffed with consultants specializing in high priority strategic areas, and shall consist of the following divisions:

(a) Division of Regional Service Center One (1), headed by a division director appointed by the commissioner of education;

(b) Division of Regional Service Center Two (2), headed by a division director appointed by the commissioner of education;

(c) Division of Regional Service Center, Four (4), headed by a division director appointed by the commissioner of education;

(d) Division of Regional Service Center Five (5), headed by a division director appointed by the commissioner of education;

(e) Division of Regional Service Center Six (6), headed by a division director appointed by the commissioner of education;

(f) Division of Regional Service Center Seven (7), headed by a division director appointed by the commissioner of education; and

(g) Division of Regional Service Center Eight (8), headed by a division director appointed by the commissioner of education.

(12) The Office of Special Instructional Services is created, and shall be headed by an associate commissioner who shall report to the deputy commissioner for learning support services, and who shall be appointed by the commissioner of education. The office shall be responsible for monitoring, reviewing, and providing statewide leadership for categorical programs, including but not limited to, those dealing with special education, secondary vocational education, and federal programs, and shall consist of the following divisions:

(a) The Division of Program Resources, headed by a division director appointed by the commissioner of education;

(b) The Division of Exceptional Children Services, headed by a division director appointed by the commissioner of education; and

(c) The Division of Secondary Vocational Education, headed by a division director appointed by the commissioner of education.

(13) The Office of Teacher Education and Certification is created, and shall be headed by an associate commissioner, who shall report to the deputy commissioner for learning support services, and who shall be appointed by the commissioner of education. The office shall be responsible for planning, organizing, and controlling the teacher testing, internship, certification, and teacher education programs in accordance with administrative regulations adopted by the Education Professional Standards Board, and shall consist of the following divisions and administrative bodies:

(a) The Division of Teacher Education, headed by a division director appointed by the commissioner of education;

(b) The Division of Testing and Internship, headed by a division director appointed by the commissioner of education;

(c) The Division of Certification, headed by a division director appointed by the commissioner of education; and

(d) The Education Professional Standards Board, established by KRS 161.028, which is attached for administrative purposes.

(14) The Office of Assessment and Accountability Services is created, and shall be headed by an associate commissioner who shall report to the deputy commissioner for learning results services, and who shall be appointed by the commissioner of education. The office shall be responsible for: testing and implementing a statewide testing program and data base involving subject area, grade level, and performance-based assessment; for analyzing and collecting testing and other data to evaluate results of instructional programs; and for developing, monitoring, and evaluating specific projects designed to meet the needs of at-risk schools and districts. The office shall consist of the following divisions:

(a) The Division of Performance Testing, headed by a division director appointed by the commissioner of education;

(b) The Division of Kentucky Instructional Results Information System, headed by a division director appointed by the commissioner of education; and

(c) The Division of Accountability, headed by a division director appointed by the commissioner of education.

(15) The Office of Assistance and Intervention Services is created, and shall be headed by an associate commissioner who shall report to the deputy commissioner for learning results services, and who shall be appointed by the commissioner of education. The office shall be responsible for providing direct assistance to local districts and schools through multidiscipline assistance teams, in order to enhance instructional results, and provide technical support in specific areas of need, and shall consist of the following divisions:

(a) The Division of Management Assistance Programs, headed by a division director appointed by the commissioner of education; and

(b) The Division of School Improvement, headed by a division director appointed by the commissioner of education.

(16) The Division of the Kentucky School for the Blind is created, and shall be headed by a division director or superintendent, who shall report to the deputy commissioner for learning results services, and who shall be appointed by the commissioner of education. The Kentucky School for the Blind Advisory Board, established by KRS 167.035, shall be attached to this division for administrative purposes.

(17) The Division of the Kentucky School for the Deaf is created, and shall be headed by a division director or superintendent who shall report to the deputy commissioner for learning results services, and who shall be appointed by the commissioner of education in accordance with KRS 167.017. The Kentucky School for the Deaf Advisory Board, established by KRS 167.037, shall be attached to this division for administrative purposes.

(18) The State Advisory Committee for Educational Improvement, established by KRS 158.680, shall be attached for administrative purposes to the deputy commissioner for learning results services.

(19) The commissioner of education may delegate to his assistants any authority to act for him in the supervision, inspection, and administration of the schools, to the extent that he has supervisory and administrative control.

(20) The Department of Education shall be the sole state agency for the purpose of developing and approving state plans that are required by state or federal laws and regulations as prerequisites to receiving federal funds for elementary and secondary education.

(21) All employees shall be reimbursed for necessary traveling expenses incurred in the performance of their official duties, and no part of the reimbursement shall be included in, or accounted as, a part of their salaries.

(22) The Department of Education, in the operation and management of its schools and the programs at the schools, shall meet all required federal and state standards relating to facilities and personnel qualifications; however, no license or license fee shall be required for any school or program operated by the Department of Education.

Section 2. KRS 156.024 is amended to read as follows:

Prior to submission of the formal budgetary requests of the Department of Education, established in ***Section 1 of this Act*** [~~KRS 156.010~~], to the Governor and executive branch, complete copies of the budget areas in the board's jurisdiction shall be forwarded to the State Board for Elementary and Secondary Education to enable it to fully investigate and review ***the*** [~~said~~] requests and make recommendations to the Governor.

Section 3. KRS 156.200 is amended to read as follows:

The chief state school officer shall receive and examine all reports required by law or by the State Board for Elementary and Secondary Education and, in person or through his assistants, shall examine and advise on the expenditures, business methods and accounts of all boards of education and all institutions placed under the management and control of the Department of Education as established in ***Section 1 of this Act*** [~~KRS 156.010~~]. He shall see that all financial and educational accounts are accurately and neatly kept and that all reports are made according to the forms adopted by the State Board for Elementary and Secondary Education.

Section 4. KRS 156.250 is amended to read as follows:

The chief state school officer shall biennially prepare the report of the Department of Education as established in ***Section 1 of this Act*** [~~KRS 156.010~~] to be submitted to the Governor and the General Assembly. The report shall set out the number attending the public schools, the amount of state funds apportioned and the source from which derived, the amount raised by county school and independent school district taxes or from other sources of revenue for school purposes, the amount expended for salaries of teachers, for the erection of school buildings, and for incidental and other expenses in the operation of the public schools under his supervision, together with any other facts, statistics, and information as may be deemed of interest, including recommendations for the improvement of the schools.

Section 5. KRS 164.285 is amended to read as follows:

KRS [~~156.010 and~~] 64.640 and any other statute, to the extent that they provide that the University of Kentucky, Eastern Kentucky State University, Western Kentucky State University, Murray State University, and Morehead State University shall be included in the Department of Education and constitute a division thereof, are hereby repealed.

Section 6. KRS 317A.150 is amended to read as follows:

Nothing in this chapter shall supersede ***Section 1 of this Act*** [~~KRS 156.010~~] nor shall any fee be required for any student enrolling in a program operated by either the state board for occupational education or the state department of education.

Section 7. The General Assembly confirms the reorganization of the Department of Education by Executive order 91-DOE-01 issued on June 28, 1991, to the extent it is not otherwise confirmed by this Act.

Section 8. The following KRS section is repealed:

156.010 Department of Education — Composition — Functions.

The Committee Amendment No. 1 to **SB 82** is as follows:

Amend printed copy of **SB 82/GA** as follows:

On page 16, line 8 after "Section 7." by inserting the following:

"KRS 160.160 is amended to read as follows:

(1) Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected from the divisions and in the manner prescribed by KRS 160.210(5), to be known as the "Board of Education of ______, Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board member; purchase, receive, hold, and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created. Each board of education shall elect a chairman and vice chairman from its membership in a manner and for a term prescribed by the board not to exceed two (2) years.

(2) No board of education shall participate in any financing of school buildings, school improvements, appurtenances thereto, or furnishing and equipment without:

(a) First establishing the cost of the project in advance of financing, based on the receipt of advertised, public, and competitive bids for such project, in accordance with KRS Chapter 424; and

(b) Establishing the cost of financing in advance of the sale of any bonds, certificates of participation in any leases, or other evidences of financial commitments issued by or on behalf of ***the*** [~~such~~] board. Any bonds, leases, participations, or other financial arrangements shall not involve a final commitment of the board until the purchaser or lender involved shall have been determined by public advertising in accordance with KRS Chapter 424.

(3) No board of education shall make a mortgage, lien, or other encumbrance upon any school building owned by the board, or transfer title to ***the*** [~~any such~~] school building as part of any financing arrangement, without the specific approval of the Department of Education, and without the transaction being entered into pursuant to a detailed plan or procedure specifically authorized by Kentucky statute.

(4) Without the approval of the Department of Education, no board may lease, as lessee, a building or public facility that has been or is to be financed at the request of the board or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the board, or by a leasing corporation. Any lease, participation, or other financial arrangement shall not involve a final commitment of the board unless and until the purchaser or lender involved in same shall have been determined by public advertising in accordance with KRS Chapter 424. No transaction shall be entered into by the board except upon the basis of public advertising and competitive bidding in accordance with KRS Chapter 424.

(5) Rental payments due by a board under a lease approved by the Department of Education in accordance with subsection (4) shall be due and payable not less than ten (10) days prior to an interest due date for the bonds, notes, or other debt obligations issued to finance the building or public facility. The paying and transfer agent bank shall notify the chief state school officer, at least eight (8) calendar days prior to the due date should the local district fail to deposit required funds on the required date. The chief state school officer, in accordance with the terms and conditions of the contract of lease and rental agreement of the revenue bond issue of the local school district, shall then resolve the matter with the local school district or intercept appropriate funds due to the local school district and transmit them to the bond and interest redemption account of the local school district.

Section 8."; and

On page 16, line 12 by changing "Section 8." to "Section 9.".

The Committee Amendment No. 2 to **SB 82** is as follows:

Amend printed copy of **SB 82/GA** as follows:

On page 11, line 4, after "***purposes***" by adding the word "***only***".

The Committee Amendment No. 3 to **SB 82** is as follows:

Amend printed copy of **SB 82/GA** as follows:

On page 10, line 12 after the word "***education***" and before the underlined period insert "***and confirmed and evaluated by the Education Professional Standards Board***";

On page 10, line 13 after the word "***for***" insert "***providing staff support and other necessary administrative services to the Education Professional Standards Board for***";

On page 10, line 13 after the word "***planning***" delete the underlined comma and insert in lieu thereof "***and***";

On page 10, lines 13 and 14 delete the words "***and controlling***";

On page 10, line 14 after the word "***testing***" delete the underlined comma and insert in lieu thereof "***and***";

On page 10, line 16 delete the word "***adopted***" and insert in lieu thereof "***promulgated***";

On page 10, line 21 before the underlined semicolon insert "***and confirmed and evaluated by the Education Professional Standards Board***";

On page 10, line 24 before the underlined semicolon insert "***and confirmed by the Education Professional Standards Board***";

On page 11, line 1 before the underlined semicolon insert "***and confirmed by the Education Professional Standards Board***";

On page 11, line 3 after the word "***for***" insert "***the purpose of receiving staff support and other necessary***";

On page 11, line 4 delete the word "***purposes***" and insert in lieu thereof "***services from the Department of Education***".

The Committee Title Amendment to **SB 82** is as follows:

Amend printed copy of **SB 82/GA** as follows:

By amending the title to read as follows:

"AN ACT relating to the Department of Education."

SB 260, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.135 is amended to read as follows:

(1) As used in this section, unless the context otherwise requires:

(a) "State agency children" means those children of school age committed to or in custody of a Cabinet for Human Resources operated or contracted institution or facility, or Cabinet for Human Resources operated or contracted [~~day~~] treatment center, designated by the secretary of the Cabinet for Human Resources for the treatment of ***children.*** [~~mental illness, emotional disturbance, mental retardation, or behavior disorders; and~~]

(b) "Current costs and expenses," means all expenditures, other than for capital outlay and debt service, which ***are in excess of the amount generated by state agency children under the Support Education Excellence in Kentucky funding formula pursuant to KRS 157.360. These expenditures are necessary to provide a two hundred thirty (230) day school year, smaller teacher pupil ratio, and more intensive educational programming***[~~, in the final result, are an actual charge on the tax revenue of the school district for the furnishing of school services to state agency children. Among other things, "current costs and expenses" does not include those expenditures for which the school district receives reimbursement from any source, other than from the state under the provisions of this section. However, in determining the costs and expenses, consideration shall be given to the fact that classroom units are more expensive for exceptional children~~].

(2) Unless otherwise provided by the General Assembly in a budget bill, any county or independent school district which provides elementary or secondary school services to state agency children shall be reimbursed ***through a contract with the Kentucky Educational Collaborative for State Agency Children*** [~~by the Department of Education, out of funds not required by law to be expended for other purposes or in any other manner, in an amount equal to all current costs and expenses of the district for furnishing such services in excess of any per capita distribution received from the common school fund on behalf of the children~~]. The school services furnished to state agency children shall be [~~substantially~~] equal to those furnished to other school children of the district.

(3) The ***Kentucky Educational Collaborative for State Agency Children*** [~~school district~~] shall make to the chief state school officer the reports ***required*** [~~he requires~~] concerning school services for state agency children, and shall file with the Cabinet for Human Resources operating the institution or day treatment center, or contracting for [~~such~~] services, in which the children are located a copy of the annual report made to the chief state school officer.

(4) ***The Cabinet for Human Resources shall contract with a university affiliated training resource center utilizing all funds generated by the children in state agency programs, except Oakwood and Hazelwood funds, and the funds in the Kentucky Department of Education budget, pursuant to this section, as well as any other educational funds for which all Kentucky children are entitled. The total of these funds shall be utilized to provide educational services through the Kentucky Educational Collaborative for State Agency Children established in Section 3 of this Act*** [~~The school district, at the end of each school year, shall make application to the chief state school officer for the reimbursement due on behalf of school services furnished during the year just ended. After approving the application, the chief state school officer shall notify the secretary of the Finance and Administration Cabinet who shall cause a warrant, in the appropriate amount, to be drawn in favor of the school district~~].

(5) Notwithstanding the provisions of any other statute, ***the Kentucky Educational Collaborative for State Agency Children shall operate a two hundred thirty (230) day school program*** [~~school districts furnishing services to state agency children may operate a year-round program for those children and may be compensated on a year-round basis provided that priority in allotting funds shall be given to one hundred eighty-five (185) day school programs~~].

Section 2. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 through 161.716, and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 through 161.716, and 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, ***deputy commissioners, associate commissioners,*** [~~principal assistants to the chief state school officer,~~] and all division directors in the state Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The state Department of Education, other public education agencies as created by the General Assembly, and such members of the administrative staff of the Teachers' Retirement System of the state of Kentucky as the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The State Department for Adult and Technical Education and the State Board for Adult and Technical Education; [~~and~~]

(h) The Department of Vocational Rehabilitation***; and***

(i) The Kentucky Educational Collaborative for State Agency Children.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), Ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employee contributions; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year, including any deductions, or any amount agreed upon by the member and the employer as an alternate form of remuneration to the member for services performed;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and like costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System or who made contributions in the next preceding fiscal year, or for whom picked up employee contributions are currently being made or for whom such contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 3. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the cabinet requires medical or surgical care or treatment, the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to ***the*** [~~such~~] medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available to the cabinet, and as far as practicable, any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster home by an agency duly authorized in KRS Chapter 620 to place a child in a foster home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. Arrangements for a child placed in a foster home to receive such examinations shall be made within two (2) weeks of his placement in a foster home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated ***or contracted*** by the cabinet shall, so far as possible, receive a common school education.

(a) The Kentucky Educational Collaborative for State Agency Children shall be established to serve children in facilities and programs operated or contracted by the Cabinet for Human Resources Residential, Day Treatment, Clinical, and Group Home programs. All policies and procedures necessary to educate state agency children shall be approved by the State Board for Elementary and Secondary Education. All duties, responsibilities, rights, and privileges specifically imposed on or granted to the local education administration units shall be imposed on or granted to the Cabinet for Human Resources and contracted agencies with regard to educating agency children. Classrooms for the Kentucky Educational Collaborative for State Agency Children shall be within or near the facilities and programs operated or contracted by the Cabinet. The Kentucky Department of Education and the Cabinet for Human Resources, Department for Social Services, Division of Children's Residential Services shall develop a biennial plan regarding the educational needs and provisions of educational programs, with emphasis on the coordination of all treatment services and funds available to provide for the education of state agency children.

(b) An advisory board composed of ten (10) members appointed by the Governor shall provide recommendations in policy development. The advisory board shall consist of one (1) member each from the Cabinet for Human Resources, the Kentucky Developmental Disabilities Council, the Kentucky Department of Edu, the Justice Cabinet, the Administrative Office of the Courts, the District Court Judges Association, the Workforce Development Cabinet, a parent, a youth advocate, and a member of the business community.

(c) Teachers and other staff may be directly hired by the Kentucky Educational Collaborative for State Agency Children or hired on contract through a local school district. All certified educational staff of the Kentucky Educational Cooperative for State Agency Children shall be members of the Kentucky Teacher's Retirement System.

(d) Beginning July 1, 1993, the Kentucky Education Collaborative for State Agency Children shall be financed through:

1. The amount generated by state agency children under the Support Education Excellence in Kentucky program as provided in KRS 157.360 for the guaranteed base and adjustments for the number of at-risk students, exceptional students, and transportation costs;

2. A per pupil distribution of professional development funds with the collaborative serving as a consortium for state agency children pursuant to KRS 156.0951;

3. A per pupil distribution of technology funds in accordance with the state education technology plan pursuant to KRS 156.670 and the formula for the distribution of funds to local school districts;

4. A per pupil distribution of textbook funds pursuant to KRS 157.100 and 157.190;

5. The funding for school services for state agency children authorized by KRS 158.135; and

6. Other grants and entitlements, including federal funds, identified in the implementation plan developed pursuant to paragraph (f) of this subsection for the education of Kentucky's children.

(e) The secretary of the Cabinet for Human Resources shall promulgate administrative regulations, pursuant to KRS Chapter 13A, with the assistance of the Kentucky Department of Education and upon recommendation of the State Board for Elementary and Secondary Education regarding the governance, curriculum, and other topics necessary to educate state agency children. The regulations shall include, but shall not be limited to, the Kentucky statutes regarding school-based decision making, student outcomes, accountability, assessment, rewards and sanctions, technology, staff development, salaries, and the development of coordinated individual treatment, education, and transition plans to ensure compliance with present education and treatment laws and regulations specific to the needs of children in the programs of the Cabinet for Human Resources.

(f) The secretary of the Cabinet for Human Resources and the commissioner of the state Department of Education shall initiate development of a plan for implementation of the Kentucky Educational Collaborative

for State Agency Children no later than July 15, 1992; and shall ensure full implementation no later than July 1, 1993. The chief state school officer shall authorize the expenditure of an amount not to exceed one percent (1%) of the total appropriation in 1992-1993 for state agency children pursuant to KRS 158.135 for the development of the plan [~~Those children requiring segregation, restraint or specialized treatment shall be provided supplemental or special education. The department of education, to the extent of available facilities, shall assist and cooperate with the department in the educational programs for the facilities and programs. Administrative regulations shall be promulgated by the cabinet in cooperation with the Kentucky department of education regarding the education of children in state agency programs operated or contracted by the cabinet for children requiring services in day treatment, residential facilities, mental retardation facilities and clinical programs. Administrative regulations shall include, but not be limited to, certification of teachers, curriculum offerings, accreditation, transfer of credits, affected eligibility for sports programs and extracurricular activities, transition to and from local education agencies, use of state agency children's funds, implementation of Public Law 94-142, as amended, in-service training of teachers, supervision and evaluation of teachers, discipline of children, educational assessment which includes basic skills testing, library services, provision and use of state adopted text books, and administrative structure of individual programs~~].

Section 4. The effective date of Section 1 of this Act is July 1, 1993.

SJR 85, A JOINT RESOLUTION urging the Workforce Development Cabinet to name the new building at the Hazard State Vocational Technical School the Devert Owens Technical Center.

WHEREAS, Devert Owens started the Hazard State Vocational Technical School on a meager budget; and

WHEREAS, Devert Owens solicited gifts of land and money to construct other buildings for the school; and

WHEREAS, Devert Owens, staff and students constructed the facility used today;

WHEREAS, Devert Owens should be honored as a dedicated vocational educator who has rendered a great service to the Commonwealth of Kentucky.

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Workforce Development Cabinet is urged to name the new building at the Hazard State Vocational Technical School the Devert Owens Technical Center.

The Committee Amendment No. 1 to **SJR 85** is as follows:

Amend printed copy of **SJR 85/GA** as follows:

On page 1, after the title and before the first "WHEREAS" insert the following:

"WHEREAS, Perry County has been the home of Sam Lindon and Devert Owens, two citizens who contributed greatly to the county and the Commonwealth; and

WHEREAS, Sam Lindon was a community leader who served ten years on the Hazard City Council and was very active in the Democratic party; and"; and

On page 1, on line 1 after "Section 1." insert the following:

"That the Transportation Cabinet is urged to name the Walkertown Bridge in Perry County the Sam Lindon Bridge.

Section 2."

The Committee Title Amendment to **SJR 85** is as follows:

Amend printed copy of **SJR 85/GA** as follows:

By amending the title to read as follows:

"A JOINT RESOLUTION memorializing deserving citizens of the Commonwealth."

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors to Bills: **HB 99**, Representatives Ravenscraft and Riggs; **HB 533**, **HB 701**, **HB 799**, **HB 812**, Representative Ackerson; **HB 725**, Representative Worthington; **HB 930**, Representative Toby.

Representative Little moved that Floor Amendment No. 1 to **SB 190** be withdrawn. Agreed.

Representative Hourigan moved that **HB 422** be withdrawn. Agreed.

Representative Cyrus moved the adoption of the following **HR 231**:

HR 231, A RESOLUTION recognizing the concern for collective bargaining rights for public employees and the need for the creation of a task force to study those concerns.

WHEREAS, there presently exist collective bargaining rights in the private sector; and

WHEREAS, there is a recognized national interest in extending those rights to public employees; and

WHEREAS, collective bargaining rights for public employees could have extensive impact on existing state and local personnel laws;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the General Assembly recognizes the interest in public sector collective bargaining rights and the national trend towards these rights;

Section 2. That the General Assembly requests the Governor to appoint a task force to study whether collective bargaining rights would be beneficial to public employees and the impact of those rights on state and local personnel laws, and to report its findings with a proposal regarding those findings to the next session of the General Assembly;

Section 3. That the General Assembly requests the Governor, in appointing the task force, to appoint representatives from civil rights groups, education, labor, the legal community, consumer groups, the clergy, business associations, government, and women's organizations, and that the Secretary of Labor be appointed as an ex officio member.

Section 4. That the Kentucky General Assembly requests that the Governor direct the Department of Personnel to provide administrative support to the task force as needed.

HR 231 was adopted by voice vote.

Representative J. Harper moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Harper moved that he be recorded as voting "yea" on **HB 99**. Agreed.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that she be recorded as voting "yea" on **HB 611**. Agreed.

Representative Lyne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that her vote be changed from "nay" to "yea" on **HB 201**. Agreed.

Representative Zimmerman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Zimmerman moved that his vote be changed from "yea" to "nay" on **HB 517**. Agreed.

Representative Collins moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that his vote be changed from "nay" to "yea" on **HB 627**. Agreed.

Representative Bentley moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bentley moved that he be recorded as voting "yea" on **HB 900**. Agreed.

Representative Strong moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Strong moved that his vote be changed from "yea" to "nay" on **HB 517**, **HB 11** and **HB 133**. Agreed.

Representative Farrow moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Farrow moved that his vote be changed from "yea" to "nay" on concurrence of Senate Amendment to **HB 458**. Agreed.

Representative Freibert moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Freibert moved that her vote be changed from "yea" to "nay" on **HB 466**. Agreed.

Representative Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Turner moved that his vote be changed from "nay" to "yea" on **HB 889**. Agreed.

Representative Keith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Keith moved that he be recorded as voting "yea" on **HB 99**. Agreed.

Representative Allen moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Allen moved that he be recorded as voting "yea" on **HB 99**. Agreed.

Representative Ackerson moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ackerson moved that he be recorded as voting "yea" on **HB 701**. Agreed.

Representative Morris moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Morris moved that his vote be changed from "yea" to "nay" on **HB 517**. Agreed.

Representative Bruce moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that his vote be changed from "yea" to "nay" on **HB 517**. Agreed.

Representative Richards moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Richards moved that he be recorded as voting "yea" on **HB 812**. Agreed.

Representative Williams moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Williams moved that he be recorded as voting "yea" on **HB 113**. Agreed.

Representative Ark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ark moved that his vote be changed from "yea" to "nay" on **HB 58**. Agreed.

Representative Altman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Altman moved that his vote be changed from "yea" to "nay" on **HB 458**, **HB 517** and **HB 201**. Agreed.

Representative Bryant moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bryant moved that she be recorded as voting "nay" on **HB 517**. Agreed.

Representative Arnold moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Arnold moved that he be recorded as voting "yea" on **HB 533**. Agreed.

Announcements

The following meetings were announced:

Elections and Constitutional Amendments, 9:00 a.m. to 12 Noon, March 19, 1992, Room 149.

Natural Resources and Environmental Protection, 15 minutes upon ajournment, Room 129, March 18, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 19, 1992.

On the roll call the vote was yeas 82—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Burch, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, Hatcher, Jensen, Johnson, Jones, Keith, Kerr, Lear, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riner, Sanders, Scorsone, B. Smith, R. Smith, T Smith, Strong, Stumbo, Toby, Todd, Turner, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Bronger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

THURSDAY, MARCH 19, 1992

FORTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. John F. Callaway, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Northup.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 18, 1992 be dispensed with and the same approved. Agreed.

Floor Amendment

Floor Amendment No. 1 to the Committee Substitute to **SB 316**, by Representative Ark:

Amend printed copy of **SB 316/HCS** beginning on page 47, line 24, by deleting all of Section 21., including lines 24, 25, and 26, on page 47, all of page 48, and through line 1 on page 49. And by renumbering the remaining sections of the bill to conform.

Senate Message

Announcing passage of **SB 350**, **SB 373**, **SB 385**, **SB 418**, **HB 89**, with Senate Amendment, **HB 592**, with Senate Amendments, and **HB 14**. (Time: 2:03 p.m.)

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 205**, by Representative Jensen:

Amend printed copy of **SB 205/GA** on page 3, line 8, by deleting the words "***expenses related to administration of government***" and inserting in lieu thereof the following: "***salaries or expense allowances for members of the fiscal court***".

Introduction of Bills and Resolutions

HR 232, by Representative Noland: A RESOLUTION celebrating the one hundred and forty-eight years Owsley County has been a part of the Commonwealth of Kentucky, upon the occasion of Kentucky's Bicentennial Year.

HR 233, by Representative Bryant: A RESOLUTION relating to use of the Armed Services Vocational Aptitude Battery testing program in Kentucky's schools.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Agriculture and Small Business: **SB 370**

Appropriations and Revenue: **SB 417**

Business Organizations and Professions: **SB 199**, **SB 422**, **SB 321**, **SB 337**, **SB 319**

Cities: **SB 342**

Counties and Special Districts: **SB 378**

Education: **SB 346**

Judiciary: **SB 8**

Natural Resources and Environmental Protection: **SB 56, SB 118**

State Government: **SB 60, SB 209**

Tourism Development and Energy: **SB 278**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Education: **HR 212, HR 213, HR 214, HR 215, HR 216, HR 217, HR 218, SB 261, SB 272, SB 312, SB 398, SJR 103, SB 20**

Report of Committees

The Committee on Natural Resources and Environmental Protection reported **SB 285, SB 287, SB 298** and **SB 318**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 285, AN ACT relating to groundwater.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 223.400 is amended to read as follows:

As used in KRS 223.405 to 223.460, unless the context requires otherwise:

(1) ***''Alteration or repair of a water well'' means any maintenance, addition, or change of well or pitless adapter, but does not include replacement or repair of a water pump or associated piping.***

(2) "Board" means the Kentucky Water Well Certification Board;

(3)[~~(2)~~] "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(4)[~~(3)~~] "Certificate" means a certificate of competency issued by the secretary stating that the water well driller has met all the requirements for the appropriate classification set forth in KRS 223.405 to 223.460 or by regulation;

(5)[~~(4)~~] "Person" means an individual, corporation, partnership, association, municipality, state and federal government, or other public body or other legal entity, or any officer, employee, or agent of any of the foregoing.

(6)[~~(5)~~] "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(7)[~~(6)~~] "Water well" or "well" means any excavation or opening in the surface of the earth that is drilled cored, bored, washed, driven, jetted, or otherwise constructed when the actual or intended use in whole or part of ***an*** [~~such~~] excavation is the removal of water for any purpose, including but not limited to culinary and household purposes, animal consumption, food manufacture, use of geothermal resources for domestic heating purposes and industrial, irrigation, and dewatering purposes, but not including wells to be used for watering stock or ***for*** general farmstead use ***if the wells do not provide water for human consumption***;

(8)[~~(7)~~] "Water well driller" means a person who is qualified to engage in the drilling, alteration, or repair of a water well as defined in this chapter;

Section 2. KRS 223.405 is amended to read as follows:

It is unlawful for any person as defined in KRS 223.400, to [~~commercially~~] construct, alter, or repair a water well without first having obtained a valid certificate as provided for in KRS 223.425.

Section 3. KRS 223.425 is amended to read as follows:

(1) Application for a certificate, or for renewal thereof, shall be made to the cabinet in writing under oath or affirmation, upon forms prescribed and furnished by the cabinet. The applications shall include:

(a) The name and address of the applicant;

(b) Prior experience, if any, in the field for which the applicant is applying;

(c) Any other information that the cabinet deems necessary in order to carry out the provisions of KRS 223.405 to 223.460; ***and***

(d) All past and current licenses held in this or any other state relating to the provisions of KRS 223.405 to 223.460.

(2) The cabinet may issue a water well driller certificate to any applicant who meets all of the provisions of KRS 223.405 to 223.460 and:

(a) Is at least eighteen (18) years of age; and

(b) Is a citizen of the United States or has declared an intention to become a citizen of the United States; and

(c) Has worked for two (2) years under the supervision of a certified water well driller or has other suitable experience or education as determined by the cabinet.[~~;~~] For those in business on July 13, 1984, the two (2) year experience requirement shall be deemed satisfied if the driller has engaged in water well drilling, over the two (2) previous years; and

(d) Has a passing grade on the examination as determined by the cabinet.

(3) Those persons in business for two (2) years on July 13, 1984, shall be deemed exempt from the examination requirements of this chapter and shall apply for and obtain a certificate by July 1, 1985.

(4) Those persons who are water witchers, dowsers, diviners, and any others who use divining rods for the purpose of locating underground water resources shall be exempt from KRS 223.405 to 223.460 ***for the purpose of locating underground water resources, but are not exempt from the requirements of KRS 223.405 to 223.460 for the purpose of installing water wells.***

(5) The term of each certificate shall be one (1) year. Each certificate shall carry with it the right to successive renewal upon application and payment of fee, unless the board finds that the certified individual has failed to comply satisfactorily with KRS 223.405 to 223.460 or the regulations promulgated pursuant to KRS 223.420 or 223.435.

Section 4. KRS 223.430 is amended to read as follows:

(1) Each application for issuance or renewal of a certificate shall be accompanied by a proof of either split limits liability coverage for bodily injury of at least twenty-five thousand dollars ($25,000) per person with an aggregate of at least fifty thousand dollars ($50,000) and for property damage of at least fifty thousand dollars ($50,000) per accident with an aggregate of at least one hundred thousand dollars ($100,000), or single limits liability coverage of not less than one hundred thousand dollars ($100,000) for all damages whether arising out of bodily injury or damage to property as a result of any one (1) accident or occurrence. Notice shall be given by certified mail to the executive secretary and treasurer of the board by the insurer upon lapse of coverage by the insurance company for any reason, including nonpayment of premiums.

(2) Prior to the issuance of a driller certificate, proof of a surety bond must be filed along with the application for a certificate. The penal sum of this bond shall be five thousand dollars ($5,000), with the applicant designated as the principal obligor and the Commonwealth designated as the obligee. The surety may be called on by the secretary if the certified individual [~~knowingly or willfully~~] violates any ***design standards adopted as*** administrative ***regulations*** [~~regulation promulgated~~] pursuant to KRS 223.420 or 223.435 or provision of KRS 223.405 to 223.460. ***The surety bond shall be used for the express purposes of correcting the violations.*** Notice of lapse of coverage for any reason by the surety shall be given by certified mail to the executive secretary and treasurer of the board by the surety.

SB 287, AN ACT relating to air quality.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The General Assembly hereby declares that assisting small businesses in complying with the requirements of the 1990 Federal Clean Air Act amendments is a top priority due to the pervasive technical nature of

these requirements. It is therefore in the best interest of Kentucky small businesses, as well as the citizens of Kentucky, to establish a program whose purpose is to advise small businesses of the requirements of the permitting program and to assist these small businesses in complying with these requirements.

SECTION 2. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet is hereby authorized to establish the Small Business Stationary Source Technical and Environmental Compliance Assistance Program, referred to hereafter as "the program." The program shall perform the functions designated for it in the 1990 Federal Clean Air Act amendments and assist the small business stationary source compliance advisory panel in the development and dissemination of the panel's reports and advisory opinions. For the purposes of this section, "small business" shall have the meaning given it in the 1990 Federal Clean Air Act amendments.

SECTION 3. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Small Business Stationary Source Compliance Advisory Panel, referred to hereafter as "the panel," to determine the overall effectiveness of Kentucky's small business stationary source technical and environmental compliance assistance program. The panel shall be attached to the Natural Resources and Environmental Protection Cabinet for administrative purposes.

(2) The nine (9) member panel shall be appointed to four (4) year terms as follows:

(a) Two (2) members, who are not owners, or representatives of owners, of small business stationary sources, shall be selected by the Governor to represent the general public;

(b) Two (2) members shall be selected by the secretary of the Natural Resources and Environmental Protection Cabinet to represent that agency;

(c) One (1) member shall be selected by the secretary of the Economic Development Cabinet; and

(d) Four (4) members who are owners, or representatives of owners of small business stationary sources, shall be selected by the Kentucky General Assembly as follows:

1. One (1) member selected by the minority leadership and one (1) member selected by the majority leadership of the Senate, and

2. One (1) member selected by the minority leadership and one (1) member selected by the majority leadership of the House of Representatives.

(3) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(4) Members of the panel shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with Kentucky statutes and administrative regulations while performing official duties.

(5) The panel shall select one (1) of its members as chair and another as vicechair.

(6) Staff services for the panel shall be performed, insofar as practicable, by personnel of the cabinet.

SECTION 4. A NEW SECTION OF SUBCHAPTER 20 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The panel shall:

(1) Render advisory opinions to the cabinet on the effectiveness of the Small Business Stationary Source Technical and Environmental Compliance Assistance Program.

(2) Prepare periodic reports to the United States Environmental Protection Agency on the program's compliance with the Federal Paperwork Reduction, Regulatory Flexibility, and Equal Access to Justice Acts.

(3) Review information for small businesses subject to the 1990 Federal Clean Air Act amendments to assure the information is understandable to the layperson.

(4) Disseminate reports, reviews, and advisory opinions.

SB 298, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining [~~and reclamation~~] operations ***who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location***;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company, or other business organization;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer, as required by this chapter and regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Development Finance Authority to foster economic development on surface mining land.

(19) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.010(9).

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(21) "Permit applicant" or "applicant" means a person applying for a permit.

(22) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

Section 2. KRS 350.028 is amended to read as follows:

The Natural Resources and Environmental Protection Cabinet shall have and exercise the following authority and powers:

(1) To adopt rules and regulations after a hearing pertaining to surface coal mining operations including strip mining and the surface effects of underground mining to accomplish the purposes of this chapter;

(2) To conduct investigations and hearings under provisions of this chapter and KRS Chapter 224 or regulations adopted pursuant thereto;

(3) To issue after an opportunity for a hearing, suspension orders or show cause orders requiring an operator***, permittee, or person*** to adopt such remedial measures as are necessary to comply with this chapter and regulations adopted pursuant thereto, provided that failure to attend a hearing shall be excused for good cause shown;

(4) To issue after an opportunity for a hearing, a final order imposing civil penalties for violations of this chapter or directing the Kentucky Bureau of Surface Mining Reclamation and Enforcement to revoke a permit, when the requirements set forth by the notice of noncompliance, order of cessation, or an order of the cabinet requiring remedial measures have not been complied with according to the terms therein, provided that the secretary or his authorized representatives determine that a pattern of violations of the requirements of this chapter or any permit conditions required by this chapter exist or have existed and if the secretary or his authorized representatives also find that ***the*** [~~such~~] violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or that ***the*** [~~such~~] violations are willfully caused by the permittee, provided further that failure to attend a hearing shall be excused for good cause shown; and

(5) To adopt [~~rules and~~] regulations to allow the state to administer and enforce the initial and permanent regulatory programs of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977" provided that ***the*** [~~such rules and~~] regulations shall be no more stringent than required by ***that*** [~~such~~] law; provided further that nothing in this chapter shall be construed as superseding, amending, modifying, or repealing any of the Acts listed in Section 702(a) of Public Law 95-87, or any rule or regulation promulgated thereunder.

Section 3. KRS 350.050 is amended to read as follows:

The Natural Resources and Environmental Protection Cabinet under the supervision of the secretary of the Natural Resources and Environmental Protection Cabinet shall have and exercise the following authority and powers:

(1) To exercise general supervision and administration and enforcement of this chapter and all rules and regulations and orders promulgated thereunder;

(2) To encourage and conduct investigations, research, experiments and demonstrations, and to collect and disseminate information relating to strip mining and reclamation of lands and waters affected by strip mining;

(3) To adopt, without hearing, internal procedures with respect to the filing of reports, the issuance of permits and other matters of procedure and administration;

(4) To examine and pass upon all plans and specifications submitted by the ***permit applicant*** [~~operator~~] for the method of operation, backfilling, grading and for the reclamation of the area of land affected by his operation;

(5) To make investigations or inspections which may be deemed necessary to insure compliance with any provision of this chapter;

(6) To order, through personnel of the cabinet, the suspension of any permit for failure to comply with any of the provisions of this chapter or any regulations adopted pursuant thereto;

(7) To order, through personnel of the cabinet, the stopping of any operation that is started without first having secured a permit as required by this chapter.

Section 4. KRS 350.055 is amended to read as follows:

(1) An applicant for a permit required by KRS 350.060 shall publish public notice of his filing of an application for that permit. ***The*** [~~Such~~] publication shall be made by advertisement in a newspaper of largest bona fide circulation, according to the definition in KRS 424.110 to 424.120, in the county wherein the proposed mining site is located.

(2) The applicant shall publish the notice of intention to mine in the newspaper identified in subsection (1) at least once a week for four (4) consecutive weeks beginning at the time of submission of an application for a surface coal mining operation permit, pursuant to regulations promulgated by the cabinet.

(3) The public notice of the filing of an application shall be entitled "Notice of Intention to Mine" and shall be in a manner and form prescribed by the cabinet and shall include, though not be limited to, the following:

(a) The name and address of the applicant;

(b) The location, ownership and boundaries of the proposed mining site.

(4) A copy of the newspaper advertisement of the ***applicant's*** [~~operator's~~] "Notice of Intention to Mine" shall be filed with the cabinet and made a part of the complete application within a reasonable time after the last date of publication.

(5) The cabinet shall notify various local government bodies, planning agencies, and sewage and water treatment authorities and water companies in the locality of the proposed operation notifying them of the ***applicant's*** [~~operator's or person's~~] intention to mine the land area as set forth in the notice of intention to mine, and identifying the permit application number assigned by the cabinet and where a copy of the permit application may be inspected. The secretary shall promulgate regulations specifying the manner in which ***the*** [~~such~~] agencies may comment on the application. Any comments put forward pursuant to this section shall immediately be forwarded by the cabinet to the applicant and shall be made available to the public at the same places as the permit application is available.

Section 5. KRS 350.060 is amended to read as follows:

(1) (a) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the ***permittee*** [~~operator~~] to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period not to exceed five (5) years. However, if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for the specified longer term, the cabinet may grant a permit for the longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(b) Subject to the provisions of KRS 350.010(1) and (2), no person shall knowingly and willfully receive, transport, sell, convey, transfer, trade, exchange, donate, purchase, deliver, or in any way derive benefit from coal removed from any surface mining operation which does not have a permit as required under this section.

(2) No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(3) ***A person*** [~~An operator~~] desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post office addresses of the applicant, which shall be updated immediately if changed at any point prior to final bond release;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of the permits;

(g) The names and addresses of every officer, partner, director, or person performing a function similar to a director of the applicant, together with the names and addresses of any individual owning of record ten percent (10%) or more of any class of voting stock of the applicant, and whether the applicant or any person is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify. The permittee shall submit updates of this information as changes occur or as otherwise provided by administrative regulation; however, failure to submit updated information shall constitute a violation of this chapter only upon the permittee's refusal or failure to timely submit the information to the cabinet upon request. Upon receipt of updated information satisfactory to the cabinet, the cabinet shall promptly update its computer system containing the information;

(h) A listing of any violations of this chapter, Public Law 95-87, and any law, rule, or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. The list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is in compliance with current reclamation standards, and if not, identify the needed reclamation work.

(4) The application for a permit shall be accompanied by an official document,and an affidavit attesting to the document's authenticity, which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, an affidavit so stating.

(5) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States Geological Survey topographic map or other map acceptable to the cabinet on which the ***applicant*** [~~operator~~] has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which the drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(6) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States Geological Survey topographic map or other map acceptable to the cabinet meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (8) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of the area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. The plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(7) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability. This determination shall not be required until the time hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. The permit shall not be approved until the information is available and is incorporated into the application.

(8) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(9) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance

for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and administrative regulations adopted pursuant thereto.

(10) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by administrative regulations of the cabinet. The coverage shall be maintained in full force and effect during the terms of the permit and any permit renewal, and until reclamation operations are completed.

(11) A basic fee set by administrative regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375), plus a fee set by administrative regulation but not to exceed seventy-five dollars ($75), for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required ***in this section*** [~~herein~~] shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The ***applicant*** [~~operator~~] shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the administrative regulations of the cabinet. The cabinet shall forfeit the entire amount of the bond for the permit area or increment in the event of forfeiture. In determining the amount of the bond, the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved, the cost of backfilling, grading and reclamation to be required, and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate administrative regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of bonds.

(12) Surface coal mining and reclamation operations which affected two (2) acres or less, as defined by administrative regulations of the cabinet, which were conducted pursuant to two-acre-or-less permits issued by the cabinet, which were commenced on or before June 5, 1987, and on which mining ceased on or before November 7, 1987, shall be exempt from the requirements of this chapter, except as follows. Reclamation of ***the*** [~~such~~] operations shall be accomplished in accordance with administrative regulations promulgated by the cabinet for operations of two (2) acres or less. The cabinet shall not require that the highwalls left by the operations be eliminated. Bond shall be maintained until reclamation is successfully completed. All procedural provisions and the penalty provisions of KRS 350.990 shall apply to operations conducted pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter, except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(13) The cabinet shall promulgate administrative regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require that all the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (11) of this section, KRS 350.070, or KRS 350.151.

(14) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. An applicant for renewal of a permit shall pay a basic fee set by regulation, not to exceed three hundred seventy-five dollars ($375). The holders of the permit may apply for renewal and the renewal shall be issued, provided that on application for renewal the burden shall be on the opponents of renewal, subsequent to the fulfillment of the public notice requirements of this chapter, unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the ***applicant's*** [~~operator's~~] continuing responsibility on existing permit areas;

(d) The ***applicant*** [~~operator~~] has not provided evidence that the performance bond in effect for the operation will continue in full force and effect for any renewal requested in the application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided.

Prior to the approval of any renewal of permit, the cabinet shall provide notice to the appropriate public authorities.

(15) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(16) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred twenty (120) days prior to the expiration of the valid permit.

(17) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by the permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that the extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at ***the*** [~~such~~] time [~~as~~] the construction of the synthetic fuel or generating facility is initiated.

(18) Each application for a permit or revision for auger mining on a previously mined area ***shall*** [~~must~~] contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(19) All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Section 6. KRS 350.062 is amended to read as follows:

(1) Applicants for permits may submit such hydrologic information on the general area prior to mining as may be made available by the cabinet pursuant to subsection (7) of this section and employ ***the*** [~~such~~] information in any reasonable mathematical water modeling formulation, logical extrapolation from existing data on the same or similar watershed or other reasonable predictive techniques which regionalize and synthetize historical, geologic and hydrologic parameters on the general area to determine surface ground water conditions, together with site specific data in determining the probable hydrologic consequences of the proposed mining.

(2) Climatological data, average seasonable precipitation, average direction and velocity of prevailing winds or seasonable temperature ranges, shall be submitted by the applicant only when requested by the cabinet on a site-by-site basis.

(3) A statement of the result of test borings or core samplings from the permit area, including logs of the drill holes; the thickness of the coal seam found; an analysis of the chemical properties of ***the*** [~~such~~] coal; the sulfur content of any coal seam to be disturbed; chemical analysis of potentially acid or toxic forming sections of the overburden; or chemical analysis of the stratum lying immediately underneath the coal seam to be mined, may be waived by the cabinet with respect to the specific application by a written determination that ***the*** [~~such~~] requirements are unnecessary.

(4) Applicants may submit fish and wildlife information within the proposed mine plan area and adjacent areas in the form of published data or data otherwise available from state and federal fish and wildlife

management, conservation or regulatory agencies and site-specific information unless the cabinet requires ***the*** [~~such~~] information based on reasonable grounds to believe that the available data ***are*** [~~is~~] inaccurate.

(5) The cabinet shall provide in its regulations that notwithstanding ***a permittee's*** [~~an operator's~~] detailed estimated timetable for the reclamation plan in the application, as long as the ***permittee or*** operator is in compliance with the contemporaneous reclamation requirements of its regulations, a failure to adhere to ***the*** [~~said~~] timetable shall not be an independent basis for a violation.

(6) The cabinet shall provide in its regulations establishing environmental protection, performance standards that ***a permittee*** [~~an operator~~] may augment subsoil strata with chemical or organic soil supplement materials produced on site or elsewhere for the purpose of complying with the topsoiling requirements of this chapter if topsoil is of insufficient quality or of poor quality for sustaining vegetation.

(7) The cabinet shall compile by September 1, 1980, available background hydrologic information concerning the general areas in which surface coal mining has or may be conducted in the Commonwealth as may be available in standard published form, research reports, studies or data compiled by other state or federal agencies including state-supported colleges and universities, the cabinet's own files, including, at a minimum, quality and quantity of water in surface and ground water systems; minimum, maximum and average discharge quantities at peak and critical low flow and seasonal variations; dissolved and suspended solids, acidity, pH, iron and manganese under seasonal flow conditions; and any other background hydrologic information required by the cabinet concerning the hydrologic regime of a general area prior to mining for purposes of making a determination of the probable consequences of the mining; and shall make available to an operator ***the*** [~~such~~] data and information concerning general areas within ten (10) days of a request in writing.

(8) The cabinet shall classify all abandoned mine land program reclamation projects as government financed construction and not surface coal mining operations and the extraction of coal as an incidental part of ***the*** [~~such~~] projects shall be exempt from the requirements of this chapter and regulations promulgated pursuant thereto.

(9) The cabinet shall not arbitrarily deny or unreasonably delay any permit application based upon the information required in this section if the registered professional engineer or geologist or other qualified person has utilized or developed a procedure or analytical method that differs from departmental technical guidelines; provided, that the registered professional engineer or geologist or other qualified person shall design a sampling and testing program based on all available information and on a site-specific basis. The reasons for denial shall be given in writing and shall be reasonably specific. The requirements contained in subsection (3) of this section may be waived for locations where the cabinet determines that adequate information is already available to the cabinet.

Section 7. KRS 350.064 is amended to read as follows:

(1) After a surface coal mining and reclamation permit application has been approved but before ***the*** [~~such a~~] permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a reclamation bond for performance payable, as appropriate, to the state, and conditional upon faithful performance of all the requirements of this chapter and the permit. The reclamation bond shall cover that area of land within the permit area upon which the ***applicant*** [~~operator~~] will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the cabinet an additional bond or bonds to cover ***the*** [~~such~~] increments in accordance with this section.

(2) The cabinet may accept the reclamation bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the cabinet the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond ***the*** [~~such~~] amount or in lieu of the establishment of a bonding program, as set forth in this section; the cabinet may approve an alternative system that will achieve the objectives and purposes of the bonding program pursuant to this section.

Section 8. KRS 350.070 is amended to read as follows:

(1) Any extensions of the area covered by the permit, except incidental boundary revisions, shall be made by application for another permit or an amendment to the permit.

(2) For an amendment, the ***permittee*** [~~operator~~] shall file an application, map, and revised reclamation plan in the same form and with the same content as required for an original application under this chapter.

He shall pay a basic fee set by regulation and bearing a reasonable relationship to the cost of processing the permit application, not to exceed three hundred seventy-five dollars ($375), plus a fee set by regulation, not to exceed seventy-five dollars ($75), for each acre or fraction of an acre for the increase requested. He shall file with the cabinet a supplemental bond in the amount to be determined under the provisions of KRS 350.060(11) for each acre or fraction of an acre of the increase approved. This application shall be subject to all of the same requirements as an original application, including, but not limited to, the same public notice, review and issuance or denial provisions.

(3) If the cabinet approves a reduction in the acreage covered by the permit, it shall release the bond for each acre reduced, but the bond shall not be reduced below ten thousand dollars ($10,000). If the cabinet approves a reduction in acreage, it shall transfer the acreage fee for each acre reduced to acreage fees for subsequent permit applications by the ***permittee*** [~~operator~~].

(4) The cabinet shall promulgate regulations specifying the permit application information requirements and procedures, including notice and hearing, which shall apply depending on the scale or extent of a permit revision. Any revision which proposes significant alterations in the reclamation plan shall be subject to the notice and hearing requirements as set forth in the regulations of the cabinet. The applicant for a revision shall pay a basic fee set by regulation, not to exceed three hundred seventy-five dollars ($375), plus a fee set by regulation not to exceed seventy-five dollars ($75), for each acre or fraction of an acre included in an incidental boundary revision.

(5) Incidental boundary revisions shall be deemed minor revisions if they:

(a) Do not exceed ten percent (10%) of the initial permit acreage;

(b) Are contiguous with the permit acreage;

(c) Are within the same watershed as the initial permit acreage;

(d) Are required for an orderly continuation of the mining operation;

(e) Cover the same coal seam or seams as in the permit;

(f) Would only involve lands for which the hydrologic and geologic data and the probable hydrologic consequences analysis contained in the permit are applicable to the proposed incidental boundary revision;

(g) Would not involve properties designated as unsuitable for mining, or any properties eligible for listing on the National Register of Historic Places;

(h) Would not involve any of the special categories of mining listed in 30 CFR Part 785 including, but not limited to, prime farmland and coal preparation plants, unless the approved permit already includes the relevant category;

(i) Would not constitute a change in the method of mining; and

(j) Would be reclaimed in conformity with the initial reclamation plan.

(6) For the purpose of this section, the maximum acreage allowed to be added by an incidental boundary revision shall be as follows:

(a) Surface operations shall be allowed up to twenty (20) acres;

(b) Underground operations shall be allowed up to ten percent (10%) of the original permitted acreage of the underground workings or twenty (20) acres, whichever is less;

(c) Surface disturbances of underground mines including, but not limited to, face-up areas and haul roads, shall be allowed up to twenty (20) acres;

(d) The cumulative acreage added by successive revisions shall not exceed the above limitations.

Section 9. KRS 350.080 is amended to read as follows:

A permittee [~~An operator~~] may conduct other mining operations from premises covered by a strip mining permit with approval of the cabinet, subject to the provisions of KRS Chapters 351 and 352. In applying to the cabinet for ***the*** [~~such~~] approval, he shall furnish the cabinet with a revised copy of the map of the area on which his permit was based on which he shall designate other mining locations, the location of outside haulageways and other parts of the area necessary to the conduct of other mining operations. The cabinet may authorize the ***permittee*** [~~operator~~] to defer the reclamation of the area covered by ***the*** [~~such~~] operations during such time as other bona fide mining operations are carried out. The bond covering that area shall remain in effect until reclamation of it has been completed by the ***permittee*** [~~operator~~] under a plan approved by the cabinet.

Section 10. KRS 350.090 is amended to read as follows:

(1) Under the provisions of this chapter and regulations adopted by the cabinet, ***a permittee*** [~~an operator~~] shall prepare and ***the permittee or operator shall*** carry out a method of operation, plan of grading and backfilling, and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams, and all other public property from soil erosion, rolling stones and overburden, water pollution, and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the cabinet and, except for applications or renewals submitted in compliance with KRS 350.060(2), the cabinet shall notify the applicant by certified mail, return receipt requested, within sixty-five (65) cumulative working days after receipt of a complete application if it is or is not acceptable. In the event that applicable notice, hearing, and conference procedures prevent a decision from being issued within the sixty-five (65) cumulative working day period, the cabinet shall have additional reasonable time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing, and conference procedures. If the permit application is not acceptable, the cabinet shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas or reject the entire application. Should the applicant disagree with the decision of the cabinet, he may, by written notice, request a hearing conducted by the cabinet in the manner provided by KRS 224.10-440. The cabinet shall notify the applicant by certified mail, return receipt requested, within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the cabinet may appeal through the courts as set forth in KRS 224.10-470.

(2) If the ***permittee*** [~~operator~~] desires to seek funds from the reclamation development fund to develop an economic development unit during reclamation, the ***permittee*** [~~operator~~] shall submit, along with the reclamation plan, a reclamation development plan outlining the reclamation development project and showing how it will conform with the reclamation standards of this chapter.

(3) No ***permittee,*** operator***, or person*** shall throw, dump, pile, or permit the dumping, piling, or throwing or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place ***these*** [~~such~~] materials [~~herein described~~] in such a way that normal erosion or slides brought about by natural physical causes will permit the materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.

Section 11. KRS 350.093 is amended to read as follows:

(1) As determined by administrative regulations of the cabinet, time and distance limits shall be established requiring backfilling, grading and planting to be kept current, so that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable under regulations promulgated by the cabinet. All backfilling and grading shall be completed before necessary equipment is moved from the operation; except that the cabinet may for good cause approve the moving of equipment before all backfilling and grading is completed.

(2) (a) The cabinet may allow ***a permittee*** [~~an operator~~] to defer the time criteria of contemporaneous reclamation requirements on specified areas if the ***permittee*** [~~operator~~] can demonstrate that the deferment is necessary to address at least one (1) of the following:

1. Adverse condition including weather, labor and other conditions clearly beyond the ***permittee's*** [~~operator's~~] control;

2. Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.080; or

3. Coal marketing problems.

(b) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet. The applicant ***shall have*** [~~has~~] the burden of establishing the need for the deferment. The applicant ***for the deferment*** shall demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of the deferment. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but the aggregate deferral period shall not exceed thirty (30) months. The deferral shall not extend beyond the expiration date of the permit. The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.

(3) If the ***permittee or*** operator [~~or other person~~] desires to conduct drift mining or other underground mining upon the premises or use the openings for haulageways or other lawful purposes, the ***permittee or*** operator may designate locations to be used for purposes at which places it will not be necessary to backfill until the drift or other underground mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of the locations shall be described and designated on the map attached thereto. If the ***permittee or*** operator [~~or other person~~] wishes to combine surface operations with underground mining operations to assure maximum practical recovery of coal resources, the cabinet may grant a variance, pursuant to regulations promulgated by the cabinet, for specific areas within the reclamation plan from the requirement that reclamation efforts proceed pursuant to subsection (1) of this section so as to permit underground mining operations prior to reclamation.

(4) The cabinet may release in whole or in part the reclamation bond or deposit for a particular operation if the cabinet is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter. These bond releases shall be made in accordance with the following schedule:

(a) When the ***permittee*** [~~operator~~] completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.

(b) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan, additional bond or collateral for the applicable permit shall be released. When determining the amount of bond to be released after successful revegetation has been established, the cabinet shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation; this amount shall be retained for the period specified for ***permittee*** [~~operator~~] responsibility for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection as long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by this chapter or until soil productivity for prime farm lands has returned to levels of yield equivalent to those of unmined land of the same soil type in the surrounding area under equivalent management practices as determined from soil surveys that may be required to be included in the permit application. If a sedimentation pond is to be retained as a permanent impoundment, the portion of bond may be released under this subsection so long as provisions for sound future maintenance by the ***permittee*** [~~operator~~] or the landowner have been made with the cabinet.

(c) When the ***permittee*** [~~operator~~] has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, or collateral, but not before the expiration of the period specified for ***permittee*** [~~operator~~] responsibility. No bond shall be fully released until all reclamation requirements of this chapter are fully met.

(5) Upon satisfying the requirements of subsections (4)(a), (b), or (c) of this section the permittee may file, or the cabinet shall initiate, an application for total or partial bond release.

(a) A permittee shall have the right to begin public advertisement of its request for bond release at the time it files its request for the release. The cabinet may undertake, at permittee expense, public advertisement of any cabinet initiated bond release. If the cabinet initiates a bond release pursuant to this subsection but chooses not to advertise the release pursuant to this section, and the permittee does not advertise the request for the release within the time schedules established by this subsection, the bond release application shall be denied. All public advertisements of bond release applications, whether authorized by the permittee or the cabinet, shall begin within sixty (60) days after either the filing of a bond release request by the permittee or the initiation of a bond release by the cabinet. Public advertisement shall occur at least once a week for four (4) successive weeks in a newspaper of general circulation in the locality of the surface coal mining operation.

(b) The public advertisement required by this subsection shall include: the permit number and permit approval date, notification of the precise location of the land affected, the number of acres, the type and amount of the bond filed and the portion sought to be released, the type and appropriate dates of reclamation work performed, a description of the results achieved as they relate to the operator's approved reclamation plan, and the name and address of the cabinet to which written comments, objections, or requests for public hearings and informal conferences on the specific bond release may be submitted. Proof of advertisement shall be placed with the bond release application within thirty (30) days after the advertisement.

(c) Within thirty (30) days of filing of any bond release request, the permittee shall submit copies of letters which it has sent to adjoining property owners, local governmental bodies, planning agencies, sewage and water treatment authorities, and water companies in the locality in which the surface coal mining and reclamation operation took place, notifying them of the intention to seek release from the bond. For bond releases initiated by the cabinet, the cabinet shall undertake the notification requirements set forth in this subsection.

(d) Upon the filing of an application for bond release by a permittee, or the initiation of the release by the cabinet, the cabinet shall notify, within thirty (30) days of the filing or initiation, the municipality where the surface coal mining operation is located, pursuant to regulations promulgated by the cabinet.

(6) Upon the filing of any partial or total bond release request by a permittee, the cabinet shall within thirty (30) days conduct an inspection and evaluation of the reclamation work involved. The evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of the pollution, and the estimated cost of abating the pollution.

(7) The cabinet shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within five (5) days following receipt of proof of public advertisement as required in subsection (5)(b), or the end of the thirty (30) day public comment period, whichever is later, if no public hearing is held pursuant to subsection (10) of this section; and if there has been a public hearing held pursuant to subsection (10) of this section, within thirty (30) days thereafter.

(8) If the cabinet disapproves the application for release of the bond or portion thereof, the cabinet shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to serve the release and allowing opportunity for a public hearing. The cabinet shall not disapprove an application for release of a surety bond or a bond secured by a letter of credit as provided for under subsection (4)(a) or (b) of this section or under the partial release provisions applicable to an interim permit, or take any action to forfeit the surety bond, or bond secured by letter of credit, solely upon the permittee's failure to pay penalties or fines, if applicable reclamation requirements for the requested release have been fully met. The cabinet shall not continue to hold under the interim or permanent program remaining surety bond proceeds or the remaining bond secured by a letter of credit where a forfeiture has occurred solely as a result of a failure to pay penalties or fines, if the reclamation requirements of this chapter have been fully met.

(9) The bond liability of the permittee shall include only those actions which the permittee is obliged to take under the permit, including completion of the reclamation plan. Actions of third parties which are beyond the control and influence of the permittee and for which the permittee is not responsible under the permit shall not be covered by the bond.

(10) Any person having a valid legal interest which might be adversely affected by release of the bond, and the responsible officer or head of any governmental agency so designated by cabinet regulations, shall have the right to file written objections to the proposed bond release with the cabinet, and to request a hearing in accordance with procedural regulations promulgated by the cabinet.

Section 12. KRS 350.095 is amended to read as follows:

The ***permittee*** [~~operator~~] shall assume responsibility for successful revegetation as required in KRS 350.435 for [~~such~~] a period [~~as~~] defined pursuant to regulations promulgated by the cabinet. ***The*** [~~Such~~] regulations shall include provisions to assure compliance with KRS 350.435, 350.093 and other applicable provisions. The cabinet may by regulation set forth different requirements when it approves a long-term, intensive, agricultural postmining land use as part of the mining and reclamation plan.

Section 13. KRS 350.100 is amended to read as follows:

(1) It shall be the duty of ***a permittee and*** [~~an~~] operator to commence the reclamation of the area of land affected by ***the*** [~~his~~] operation as contemporaneously as practicable after the beginning of operations on that area in accordance with plans previously approved by the cabinet. ***The*** [~~Such~~] grading, backfilling and water management practices that are approved in the plans shall be kept current with the operation as defined by regulations of the cabinet and no permit renewal or revision shall be issued, if under the regulations of the cabinet, these practices are not current;

(2) If an investigation indicates that planting so as to provide vegetative cover of an area of land affected by surface coal mining may not be successful, consistent with subsection (1) the cabinet may authorize the ***permittee or person*** [~~operator~~] to defer ***the*** [~~such~~] planting until the soil and/or weather has become suitable for ***that purpose*** [~~such purposes~~].

Section 14. KRS 350.113 is amended to read as follows:

(1) When the planting of a permit area is completed, the ***permittee*** [~~operator~~] shall file a planting report with the cabinet on a form to be prescribed and furnished by the cabinet, giving the following information:

(a) Identification of the operation;

(b) The type of planting or seeding, including mixtures and amounts;

(c) The date of planting or seeding;

(d) The area of land planted;

(e) Other relevant information as the cabinet may require.

(2) All planting reports shall be certified [~~by the operator~~].

(3) Inspection and evaluation for vegetative cover shall be made as soon as it is possible to determine if a satisfactory stand has been established. In no instance shall this vegetative cover check be made until just prior to or after the completion of the first growing season.

Section 15. KRS 350.117 is amended to read as follows:

All trees, shrubs, grasses and legumes required by this chapter and regulations to be planted or seeded on the area of land affected shall become the property of the landowner, unless the ***permittee*** [~~operator~~] and the landowner agree otherwise.

Section 16. KRS 350.120 is amended to read as follows:

Within sixty (60) days after the date of expiration of a permit, the ***permittee*** [~~operator~~] shall file with the cabinet a report stating the exact number of acres of land affected by the operation, the extent of the reclamation already accomplished by him, and such other information as may be required by the rules and regulations of the cabinet. The report shall be accompanied by a copy of the map filed with the original application which shall show any revisions made necessary by results of the operation.

Section 17. KRS 350.130 is amended to read as follows:

(1) When any of the requirements of this chapter or administrative regulations adopted pursuant thereto or the orders of the cabinet have not been complied with, the cabinet shall forthwith cause a notice of noncompliance to be issued upon the ***permittee,*** person, or operator. The cabinet shall set forth in its notice a reasonable time period but not more than ninety (90) days for the abatement of the violation. If any ***permittee,*** person, or operator has not abated the violation within the time prescribed in the notice of noncompliance, the secretary or other authorized personnel of the cabinet shall issue to ***the permittee,*** [~~said~~] operator, or person an order for immediate compliance and cessation of any mining activities or operations which are contributing to the violation. ***The*** [~~Such~~] order shall require the ***permittee,*** person, or operator to abate the violation in the most expeditious manner possible. The secretary is authorized to promulgate reasonable administrative regulations for the implementation of this section. ***The*** [~~Such~~] notice or order shall be handed to the person in charge of the operation, and the operator or person engaged in coal exploration operations or sent by certified mail, return receipt requested, addressed to the permanent address shown on the application for a permit or if no address is shown on the application, then to the address known to the cabinet. The notice of noncompliance or order for immediate compliance and cessation shall specify in what respects the ***permittee,*** person, or operator has failed to comply with this chapter or the regulations or orders of the cabinet and the remedial action required, the period of time established for abatement, and a reasonable description of the portion of the surface coal mining and reclamation operation to which the notice or order applies. If the ***permittee,*** person, or operator has not reached an agreement with the cabinet or has not complied with the requirements set forth in the notice of noncompliance or order for immediate compliance and cessation within time limits set therein, the permit may be revoked or the operation terminated, after an opportunity for a hearing, by order of the cabinet and the performance bond, if any, shall then be forfeited to the cabinet, except as provided in subsection (2) of this section, provided that failure to attend a hearing shall be excused for good cause shown. Any bonding company or financial institution providing bond to the cabinet shall have

the right to perform those measures necessary to secure bond releases if ***the*** [~~said~~] bonding company or financial institution can demonstrate that it has the ability to perform ***the*** [~~said~~] measures and will undertake to do so within a reasonable time frame. ***The bonding company or financial institution providing the bond, may, at any stage of the reclamation process, pay the remaining encumbered balance of the bond and thereby discharge its obligation under the bond.*** Neither the surety company nor the financial institution may employ anyone to perform ***the*** [~~said~~] measures who has been barred from mining pursuant to the provisions of this chapter.

(2) When a bond is forfeited consistent with the provisions of this chapter, the cabinet shall forfeit the entire amount of the bond for the permit area or increment.

(3) ***A permittee,*** [~~An~~] operator, or person whose mining permit or operation has been revoked, suspended, or terminated or is at the time of the application in violation of this chapter or other applicable requirements as set forth in KRS 350.085 shall not be eligible to receive another permit or begin another operation or to have suspended permits or operations reinstated until he shall have complied with all the requirements of this chapter or submitted proof satisfactory to the cabinet under KRS 350.085 that ***the*** [~~such~~] violation has been corrected or is in the process of being corrected in respect to all permits issued him, provided, further, that no ***permittee,*** operator, or person shall be eligible to receive another permit or begin another operation who has forfeited any bond unless the land for which the bond was forfeited has been reclaimed without cost to the state or the ***permittee,*** operator, or person has paid such sum as the cabinet finds is adequate to reclaim ***the*** [~~such~~] lands. The cabinet shall not issue any permits to or allow future operations by any ***permittee,*** operator, or person who has demonstrated a pattern of willful violations of this chapter of such nature and duration with such resulting irreparable damage to the environment as to indicate an intent not to comply with the provisions of this chapter, provided that no permit shall be denied on this basis without an opportunity for a hearing. The secretary shall promulgate regulations which implement this section. For the purposes of this section, if a corporate permittee has demonstrated a pattern of willful violations, then any subsequent application for a permit by that corporation, or any person who controls or has controlled that corporation, shall be denied.

(4) In the exercise of the secretary's enforcement powers and authority under this chapter, the secretary, or an authorized representative of the cabinet, after inspection shall immediately order the cessation of ***the*** [~~such~~] condition or operation when he determines that the condition or operation creates an imminent danger to the health or safety of the public or that the condition or operation is causing or can reasonably be expected to cause significant imminent environmental harm in violation of this chapter or the regulations pursuant to this chapter, or any permit condition. For purposes of this subsection, "imminent danger to the health and safety of the public" means the existence of any condition or practice, or any violation of a permit or other requirement of this chapter in a surface coal mining and reclamation operation, which condition, practice, or violation could reasonably be expected to cause substantial physical harm to persons outside the permit area before ***the*** [~~such~~] condition, practice, or violation can be abated. A reasonable expectation of death or serious injury before abatement exists if a rational person, subjected to the same conditions or practices giving rise to the peril, would not expose himself or herself to the danger during the time necessary for abatement.

(5) Each provision of this section shall be interpreted and applied consistently with due process of law.

(6) The secretary, or authorized representatives of the cabinet, shall have the power to vacate, amend, modify, or terminate notices of noncompliance and cessation orders, pursuant to administrative regulations promulgated by the cabinet.

Section 18. KRS 350.135 is amended to read as follows:

(1) No surface coal mining permit issued pursuant to this chapter shall be transferred by sale, assignment, lease, or otherwise except upon the written approval by the cabinet of a joint application submitted by both the transferor and the transferee. A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the transfer, but not to exceed three hundred seventy-five dollars ($375) shall accompany the application and no acreage fee will be assessed. The transferee shall file with the application a bond satisfactory to the cabinet which shall ensure reclamation of the entire area of land affected under the permit, including areas previously affected by the transferor. All rights and liabilities under the permit shall pass to the transferee upon written approval of the transfer by the cabinet, except that the transferor shall remain liable for any civil penalties resulting from violations occurring prior to the date of approval of the transfer. The cabinet shall not approve transfer of a surface coal mining permit to any person who would be ineligible to receive a new permit under this chapter.

(2) After the cabinet has given its written approval to the transfer, the transferee may conduct surface coal mining and reclamation operations according to the approved mining and reclamation plan of the original permittee. Any transferee seeking to change the conditions of mining or reclamation operations, or any of

the terms or conditions of the original permit, shall apply for a new or revised permit pursuant to the requirements of the cabinet.

(3) The cabinet shall not release the first ***permittee*** [~~operator~~] from bond liability under this chapter as to that particular operation until the transferee, having filed a bond satisfactory to the cabinet, receives written approval from the cabinet for the transfer, and otherwise complies with the requirements of this chapter, and provided further that the transferee shall assume as part of his obligation under this chapter, all liability for the reclamation of the area of land affected by the former ***permittee*** [~~operator~~].

(4) The cabinet may promulgate reasonable regulations and administrative procedures to implement this section.

(5) The cabinet shall approve the transfer application if:

(a) A joint agreement or sale has been executed;

(b) The transferee has posted bond satisfactory to the cabinet which insures reclamation of the entire area of land affected under the permit;

(c) The transferee has paid the fee pursuant to subsection (1) of this section;

(d) The transferee has agreed to operate under provisions of the approved permit being transferred.

Section 19. KRS 350.150 is amended to read as follows:

(1) In the reclamation of land affected by surface coal mining operations for which it has funds available, the cabinet may avail itself of any services which may be provided by other state agencies or by agencies of the federal government, and may compensate them for ***the*** [~~such~~] services. The cabinet may also receive any federal funds, state funds or any other funds for the reclamation of land affected by surface coal mining operations. The cabinet may cause the reclamation work to be done by its own employees or by employees of other governmental agencies, soil conservation districts, or through contracts with qualified persons. ***The*** [~~Such~~] contracts shall be awarded to the lowest responsible bidder upon competitive bids after reasonable advertisement. The cabinet and any other agency and any contractor under a contract with the cabinet shall have the right of access to the land affected to carry out such reclamation.

(2) Any funds available to the cabinet and any public works program (both funds and services) may be used and expended to reclaim and rehabilitate any lands that have been subjected to surface coal mining operations that have not been reclaimed and rehabilitated in accordance with standards set by this chapter or regulations thereunder and which are not covered by bond to guarantee ***the*** [~~such~~] reclamation.

(3) A person or organization, having qualifications acceptable to the cabinet, may post bond or a cash deposit, in a sum determined by the cabinet, and assume the liability for carrying out the reclamation plan approved by the cabinet in areas where the mining operation and any necessary grading and backfilling have been completed. The cabinet shall then release the bond posted by the ***permittee*** [~~operator~~] for ***the*** [~~such~~] area.

Section 20. KRS 350.151 is amended to read as follows:

(1) The Natural Resources and Environmental Protection Cabinet shall promulgate permanent program administrative regulations for the mining and reclamation of land disturbed or removed by operations resulting from or incident to underground coal mining. The regulations shall recognize the distinct differences between underground mining and strip mining of coal, shall be promulgated pursuant to this chapter, and shall be enforced as provided in KRS 350.130 and 350.990. Those activities may include, but not be limited to, the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and all lands affected by haulage, excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface, but the regulations shall not be more stringent than those applied to strip mining of coal.

(2) The ***permit applicant*** [~~operator~~] shall file with the cabinet a reclamation bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000) conditioned upon the faithful performance of the requirements set forth in this section and of the administrative regulations of the cabinet. The cabinet shall forfeit the entire amount of the bond for the

permit area or increment in the event of forfeiture. The cabinet shall accept, in lieu of the surety provided ***in this subsection*** [~~herein~~], the deposit by the operator of United States government securities, cash, or its equivalent in a sum equal to the principal amount of the required bond, or a self-bond pursuant to administrative regulations promulgated by the cabinet.

(3) In order to protect the stability of the land, the cabinet shall suspend underground mining activities under urbanized areas, and adjacent to industrial or commercial buildings, major impoundments, or permanent streams, if the cabinet finds imminent danger to inhabitants of the urbanized areas.

Section 21. KRS 350.230 is amended to read as follows:

Irrespective of date of issuance of a permit, all ***permittees,*** operators***, and persons*** shall immediately conform to any statutes enacted or regulations adopted on the effective date of ***the*** [~~such~~] statute or regulation. This section shall not require the regrading or replanting of any area on which ***the*** [~~such~~] work was satisfactorily performed prior to the effective date of the statute or regulation. The cabinet shall specify for every regulation promulgated pursuant to this chapter the effective date of such regulation. However, the cabinet may specify a reasonable period of time in which ***permittees, persons, and*** operators shall conform to any regulations adopted when it finds that such conformance time is reasonably necessary.

Section 22. KRS 350.255 is amended to read as follows:

(1) Any person may petition the secretary of the Natural Resources and Environmental Protection Cabinet to initiate a proceeding for the issuance, amendment or repeal of any regulation under this chapter.

(a) Notice and an opportunity shall be provided for the petitioner and any person wishing to participate to be heard at a public hearing within thirty (30) days following the filing of the petition on the facts, technical justification and law alleged in the petition.

(b) The secretary shall render a final order in writing within thirty (30) days after the hearing granting or denying the petition on grounds that there is a reasonable basis for the petitioned rule change, or is not, or that it is required or prohibited by law and setting forth the reasons for the decision.

(c) The secretary shall initiate a rulemaking proceeding pursuant to KRS Chapter 13A within thirty (30) days after a petition is granted proposing the issuance, amendment or repeal of the petitioned regulations in conformity with the final order.

(d) Any participant in the petition proceedings may seek review in the Circuit Court of Franklin County of a final order of the secretary denying all or any portion of the action requested in a petition.

(2) The cabinet shall promulgate regulations pursuant to the provisions set forth in this chapter establishing formal and informal hearing and conference procedures whereby any such hearing or conference shall upon the written request of the ***permittee,*** operator, ***or person*** be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The procedures developed pursuant to this subsection will provide that ***the*** [~~such~~] hearings and conferences be held in the most expeditious manner possible within the minimum time constraints established under this chapter; all such actions shall be adjudicatory in nature; and no person who presided at a prior hearing or conference shall either preside at a subsequent hearing in the same matter or participate in any further decision or any subsequent administrative appeal. No regulation or administrative practice relating to conferences or hearings shall authorize the imposition or collection of a civil penalty, or the compromise of a dispute relating to an alleged violation, by any cabinet personnel other than an independent, impartial hearing officer in the course of a formal or informal hearing or conference.

Section 23. KRS 350.405 is amended to read as follows:

The ***permittee or person*** [~~operator~~] shall restore the land affected to a condition capable of supporting the uses which it was capable of supporting prior to any mining, or higher or better uses of which there is reasonable likelihood, so long as ***the*** [~~such~~] use or uses do not present any actual or probable hazard to public health or safety or pose any actual or probable threat of water diminution or pollution, and the permit applicant's declared proposed land use following reclamation is not deemed to be impractical or unreasonable, inconsistent with applicable land use policies and plans, involves unreasonable delay in implementation, or is violative of federal, state, or local law.

Section 24. KRS 350.410 is amended to read as follows:

Except as provided in KRS 350.450(2)(a) to (e), the ***permittee,*** operator***, or person*** shall with respect to all surface coal mining operations backfill, compact (where advisable to insure stability or to prevent leaching of toxic materials), and grade in order to restore the approximate original contour of the land with all highwalls, spoil piles, and depressions eliminated (unless small depressions are needed in order to retain moisture to assist revegetation or as otherwise authorized pursuant to this chapter); provided, however, that in surface coal mining which is carried out at the same location over a substantial period of time where the operation transects the coal deposit, and the thickness of the coal deposits relative to the volume of the overburden is large and where the ***permittee or*** operator demonstrates that the overburden and other spoil and waste materials at a particular point in the permit area or otherwise available from the entire permit area is insufficient, giving due consideration to volumetric expansion, to restore the approximate original contour, the operator, at a minimum, shall backfill, grade, and compact (where advisable) using all available overburden and other spoil and waste materials to attain the lowest practicable grade but not more than the angle of repose, to provide adequate drainage and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region; and, provided further, that in surface coal mining where the volume of overburden is large relative to the thickness of the coal deposit and where the ***permittee or*** operator demonstrates that due to volumetric expansion the amount of overburden and other spoil and waste materials removed in the course of the mining operation is more than sufficient to restore the approximate original contour, the ***permittee or*** operator shall after restoring the approximate contour, backfill, grade, and compact (where advisable) the excess overburden and other spoil and waste materials to attain the lowest grade but not more than the angle of repose, and to cover all acid-forming and other toxic materials, in order to achieve an ecologically sound land use compatible with the surrounding region and that ***the*** [~~such~~] overburden or spoil shall be shaped and graded in such a way as to prevent slides, erosion, and water pollution and shall be revegetated in accordance with the requirements of this chapter.

Section 25. KRS 350.415 is amended to read as follows:

The ***permittee or*** operator shall remove the topsoil from the land in a separate layer, replace it on the backfill area, or if not utilized immediately, segregate it in a separate pile from other spoil and when the topsoil is not replaced on a backfill area within a time short enough to avoid deterioration of the topsoil, maintain a successful cover by quick growing plant or other means thereafter so that the topsoil is preserved from wind and water erosion, remains free of any contamination by other acid or toxic material, and is in a usable condition for sustaining vegetation when restored during reclamation, except if topsoil is of insufficient quantity or of poor quality for sustaining vegetation, or if other strata can be shown to be more suitable for vegetation requirements, then the operator shall remove, segregate, and preserve in a like manner such other strata which ***are*** [~~is~~] best able to support vegetation. Or where topsoil is of insufficient quantity or of poor quality for sustaining vegetation, the ***permittee or*** operator may, with the approval of the cabinet, employ the technology required to utilize alternative soil materials approved by the cabinet or soil amendments necessary to sustain vegetation in accordance with the requirements of this chapter.

Section 26. KRS 350.420 is amended to read as follows:

The ***permittee,*** operator***, or person*** shall minimize disturbances to the prevailing hydrologic balance at the mine site and in associated offsite areas and to the quality and quantity of water in surface and ground water systems both during and after surface coal mining operations and during reclamation by:

(1) Avoiding acid or other toxic mine drainage by such measures as, but not limited to:

(a) Preventing or removing water from contact with toxic producing deposits;

(b) Treating drainage to reduce toxic content which adversely affects downstream water upon being released to watercourses; and

(c) Casing, sealing, or otherwise managing boreholes, shafts, and wells and keeping acid or other toxic drainage from entering ground and surface waters;

(2) Conducting surface coal mining operations so as to prevent, to the extent possible using the best technology currently available, additional contributions of suspended solids to streamflow, or runoff outside the permit area, but in no event shall contributions be in excess of requirements set by applicable state or federal law;

(3) Constructing any siltation structures pursuant to subsection (2) of this section prior to commencement of surface coal mining operations, ***the*** [~~such~~] structures to be certified by a qualified registered engineer to be constructed as designed and as approved in the reclamation plan;

(4) Cleaning out and removing temporary or large settling ponds or other siltation structures from drainways after disturbed areas are revegetated and stabilized, and depositing the silt and debris at a site and in a manner approved by the cabinet, however, settling ponds and siltation structures may be left and not removed if determined to be safe and written approval is granted by the cabinet pursuant to its regulations;

(5) Restoring recharge capacity of the mined area to approximate premining conditions;

(6) Avoiding channel deepening or enlargement in operations requiring the discharge of water from mines; and

(7) Such other actions as the cabinet may prescribe.

Section 27. KRS 350.421 is amended to read as follows:

(1) Nothing in this chapter shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, his interest in water resources affected by a surface coal mining operation.

(2) Each ***permittee or*** operator of a surface coal mine shall replace the water supply of an owner of interest in real property who obtains all or part of his supply of water for domestic, agricultural, industrial or other legitimate use from an underground or surface source where ***the*** [~~such~~] supply has been affected by contamination, diminution, or interruption proximately resulting from ***the*** [~~such~~] surface coal mine operation.

Section 28. KRS 350.425 is amended to read as follows:

The ***permittee,*** operator***, or other person*** shall design, locate, construct, operate, maintain, enlarge, modify, and remove or abandon, in accordance with the standards and criteria developed pursuant to subsection (f) of Section 515 of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977," all existing and new coal mine waste piles consisting of mine wastes, tailings, coal processing wastes, or other liquid and solid wastes, and used either temporarily or permanently as dams or embankments. The Kentucky Department of Surface Mining through this chapter shall have exclusive jurisdiction over KRS Chapter 151 concerning the regulation of dams, levees, embankments, dikes, bridges, fills, or other obstructions across or along any stream or in the floodway of any stream, which structures or obstructions are permitted under this chapter.

Section 29. KRS 350.430 is amended to read as follows:

The ***permittee or*** operator shall:

(1) Provide adequate advance written notice to local governments and residents who might be affected by the use of such explosives by publication of the planned blasting schedule in a newspaper of general circulation in the locality and by mailing a copy of the proposed blasting schedule to every resident living within one-half (1/2) mile of the proposed blasting site and by providing daily notice to resident/occupiers in ***the*** [~~such~~] areas prior to any blasting;

(2) Maintain for a period of at least three (3) years and make available for public inspection upon request a log detailing the location of the blasts, the pattern and depth of the drill holes, the amount of explosives used per hole, and the order and length of delay in the blasts;

(3) Limit the type of explosives and detonating equipment, the size, the timing and frequency of blasts based upon the physical conditions of the site so as to prevent injury to persons, damage to public and private property outside the permit area, adverse impacts on any underground mine, and change in the course, channel, or availability of ground or surface water outside the permit area;

(4) Require that all blasting operations be conducted by trained and competent persons as certified by the Department of Mines and Minerals; and

(5) Provide that upon the request of a resident or owner of a man-made dwelling or structure within one-half (1/2) mile of any portion of the permitted area the applicant or permittee shall conduct a preblasting survey of ***the*** [~~such~~] structures and submit the survey to the department and a copy to the resident or owner making the request. The area of the survey shall be decided by the department and shall include such provisions as the department shall promulgate. The cabinet and the Department of Mines and Minerals are authorized to enter into agreements whereby the cabinet or the Department of Mines and Minerals administers part or all of this section.

(6) Penalties for violations of this section are those set forth in KRS 350.990.

Section 30. KRS 350.435 is amended to read as follows:

The ***permittee or other person*** [~~operator~~] shall establish on the regraded areas, and all other lands affected, a diverse, effective, and permanent vegetative cover of the same seasonal variety native to the area of land to be affected and capable of self-regeneration and plant succession at least equal in extent of cover to the natural vegetation of the area; except, that introduced species may be used in the revegetation process where desirable and necessary to achieve the approved postmining land use plan.

Section 31. KRS 350.440 is amended to read as follows:

The ***permittee or*** operator shall place all excess spoil material resulting from surface coal mining and reclamation operations pursuant to this chapter in the following manner:

(1) Spoil is transported and placed in a controlled manner in position for concurrent compaction (where advisable) and in such a way as to assure mass stability and to prevent mass movement;

(2) The areas of disposal are within the bonded permit areas and all organic matter shall be removed immediately prior to spoil placement;

(3) Appropriate surface and internal drainage systems and diversion ditches are used so as to prevent spoil erosion and movement;

(4) The disposal area does not contain springs, natural watercourses, or wet-weather seeps unless lateral drains are constructed from the wet area to the main underdrains in such a manner that filtration of the water into the spoil pile will be prevented;

(5) If placed on a slope, the spoil is placed upon the most moderate slope among those upon which, in the judgment of the cabinet, the spoil could be placed in compliance with all the requirements of this chapter and shall be placed, where possible, upon, or above, a natural terrace, bench, or berm, if ***the*** [~~such~~] placement provides additional stability and prevents mass movement;

(6) Where the toe of the spoil rests on a downslope, a rock toe buttress of sufficient size to prevent mass movement is constructed;

(7) The final configuration is compatible with the natural drainage pattern and surroundings and suitable for intended uses;

(8) Design of the spoil disposal area is certified by a qualified registered professional engineer in conformance with professional standards; and

(9) All other provisions of this chapter are met.

Section 32. KRS 350.445 is amended to read as follows:

The following performance standards shall be applicable to steep-slope strip mining and shall be in addition to those general performance standards required by KRS 350.405 to 350.435; provided, however, that the provisions of this section shall not apply to those situations in which ***a permittee or*** [~~an~~] operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area, or where ***a permittee or*** [~~an~~] operator is in compliance with the provisions of KRS 350.450(2):

(1) The ***permittee or*** operator shall insure that when performing strip mining on steep slopes, debris, abandoned or disabled equipment, spoil material, or waste mineral matter not be placed on the downslope below the bench or mining cut; provided, that spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of KRS 350.410 or 350.445(2) shall be permanently stored pursuant to KRS 350.440.

(2) The ***permittee or*** operator shall complete backfilling with spoil material and shall be required to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The ***permittee or*** operator may not disturb land above the top of the highwall unless the cabinet finds that the disturbance will facilitate compliance with the environmental protection standards of this subsection; provided, however, that the land disturbed above the highwall shall be limited to that amount necessary to facilitate compliance.

(4) For the purposes of this section, the term "steep slope" is any slope above twenty (20) degrees or such lesser slope as may be defined by the cabinet, by regulation, after consideration of soil, climate, and other characteristics of the region.

Section 33. KRS 350.455 is amended to read as follows:

If authorized in the approved mining and reclamation plan and permit, the ***permittee or*** operator may create permanent impoundments of water on mining sites as part of reclamation activities only when it is adequately demonstrated that:

(1) The size of the impoundment is adequate for its intended purposes;

(2) The impoundment dam construction will be so designed as to achieve necessary stability with an adequate margin of safety compatible with that of structures constructed under Public Law 83-566 (16 U.S.C. 1006);

(3) The quality of impounded water will be suitable on a permanent basis for its intended use and that discharges from the impoundment will not degrade the water quality below water quality standards established pursuant to applicable federal and state law in the receiving stream;

(4) The level of water will be reasonably stable;

(5) Final grading will provide adequate safety and access for proposed water users; and

(6) ***The*** [~~Such~~] water impoundments will not result in the diminution of the quality or quantity of water utilized by adjacent or surrounding landowners for agricultural, industrial, recreational, or domestic uses.

Section 34. KRS 350.465 is amended to read as follows:

(1) The provisions of this section and regulations promulgated pursuant thereto, [~~(~~]except with regard to the mining of clay, limestone, sand, gravel, fluorspar, stone, and rock asphalt,[~~)~~] shall apply to the regulation of all surface coal mining and reclamation operations in the Commonwealth in the event that the Commonwealth receives from the United States Department of Interior and pursuant to the Surface Mining Control and Reclamation Act of 1977, [~~(~~]PL 95-87,[~~)~~] approval of a permanent state regulatory program, and the Commonwealth has promulgated regulations pursuant to this section.

(2) The Natural Resources and Environmental Protection Cabinet is hereby authorized and directed to prepare, develop and promulgate a comprehensive permanent regulatory program for the implementation of the Surface Mining Control and Reclamation Act of 1977, [~~(~~]PL 95-87,[~~)~~] for the purpose of accepting and administering primary enforcement responsibilities pursuant to that act. The implementation of this section shall contain procedures similar to the Surface Mining Control and Reclamation Act of 1977, [~~(~~]PL 95-87,[~~)~~] and shall require surface coal mining operation performance standards no more stringent than provided for in that act. Nothing ***in this section*** [~~herein~~] shall be construed to empower the cabinet to adopt a regulatory program in conflict with the policy and purposes of the Surface Mining Control and Reclamation Act of 1977, [~~(~~]PL 95-87[~~)~~]. To that end, the Natural Resources and Environmental Protection Cabinet shall include in its permanent regulatory program:

(a) Environmental protection performance standards to prevent or minimize the adverse environmental effects of surface coal mining and reclamation operations on the land and water resources of the Commonwealth.

(b) A procedure for designating as being unsuitable for mining certain lands because of their topographical, geological, hydrological, climatological, biological, or chemical characteristics or historical, cultural, scientific or aesthetic values.

(c) Procedures and regulations for the allowance of those persons having an interest which is or may be adversely affected to have the opportunity to be heard at every significant or critical part of the administrative and judicial process, including, but not limited to, the permit review and issuance process, the general enforcement process and hearings incident thereto, and the rulemaking procedures conducted by the cabinet; and procedures and regulations for persons having a valid legal interest which is or may be adversely affected by the setting, release, and inspection of bonds to have an opportunity to be heard at every significant or critical part of the administrative and judicial process relating to bonds. ***The*** [~~Such~~] regulations shall provide reasonable procedures for notice and an opportunity to be heard, access to minesites, access to records, and other reasonable procedures to accomplish the purposes of this chapter.

(d) Procedures for the administrative and judicial review of all actions of the cabinet to administer and enforce the provisions of this chapter, including the award of costs and expenses***,*** [~~(~~]including attorney's fees and expert witness fees***,***[~~)~~] by the cabinet or the court.

(e) Plans and procedures for the reclamation and restoration of land and water resources affected by mining which have been abandoned or inadequately reclaimed to the standards imposed by this section and for which no bond is held or legal obligation to reclaim continues. ***The*** [~~Such~~] plan shall include provisions for the imposition of liens for necessary reclamation expenditures made on private property.

(f) Procedures for the assumption of the small operator assistance program pursuant to the Surface Mining Control and Reclamation Act of 1977***,*** [~~(~~]PL 95-87[~~)~~]. The cabinet shall assume and implement that program and apply for and administer funds as may be provided pursuant to that act and such state funds as may be provided for the program.

(3) In addition to any other authority, power and duty vested in it by law, the cabinet shall have and exercise broad authority, power and duty to:

(a) Require those persons who wish to engage in surface coal mining and reclamation operations to submit application for a permit from the cabinet to conduct ***the*** [~~such~~] operations, and to include in that application all information required by the cabinet pertaining to that operation.

(b) Issue, deny, or modify under such conditions as the cabinet may prescribe, permits to conduct surface coal mining and reclamation operations within the Commonwealth.

(c) Enter and inspect any permitted surface coal mining and reclamation operation or any known or suspected unpermitted mining operation for the purpose of ascertaining compliance with any provision of this chapter or of the permit.

(d) Order the cessation of mining activities, and if necessary impose affirmative abatement obligations, upon the ***permittee,*** operator***, or person*** when, upon inspection, the cabinet determines that this section or any permit condition is being or has been violated so as to constitute an imminent and inordinate peril to the welfare of the Commonwealth.

(e) Order ***a person, permittee, or*** an operator to comply with the requirements of this section or his permit if inspection reveals a violation of the conditions of his permit or of any provision of this section.

(f) Order ***a permittee*** [~~an operator~~] to appear and show cause why his permit should not be suspended or revoked and his bond forfeited if the cabinet determines that the ***permittee or*** operator or the permitted operation has a pattern of violations of this section or permit conditions, and has willfully violated this section or permit conditions or a pattern of violations exists and that ***the*** [~~such~~] violations are caused by the ***operators' or permittee's*** [~~permittees'~~] unwarranted failure to comply with this section or permit conditions.

(g) Require, increase, release or decrease, under such conditions as the cabinet may prescribe reclamation performance bonds and cause the forfeiture and collection of those bonds where the permittee has abandoned the operation or for which the permit under which the bond was given has been revoked or has expired without the required reclamation.

(h) To administratively impose, in lieu of those civil penalties provided for in KRS 350.990, civil penalties of up to five thousand dollars ($5,000) per day for violations of permit conditions, this section, or any orders of the cabinet and enforce the administrative assessment of ***the*** [~~such~~] penalties by initiating civil action in the Franklin Circuit Court or in any court having jurisdiction of the defendant.

(i) Conduct hearings and make investigations of any matter relating to the regulation of surface coal mining and reclamation operations, and provide for the assessment and payment of civil penalties including the placement of proposed civil penalty assessments into an escrow account prior to a contest on the amount of the assessment, consistent with the process of law.

(j) Provide for variances or exceptions consistent with KRS 350.450 from or in addition to mining performance standards, recognizing the specific characteristics inherent in:

1. Steep slope mining;

2. Mountaintop removal;

3. Relatively low acreage disturbance or annual coal production;

4. Prime farmland mining as defined by the United States Department of Agriculture, and to provide for other variances where land uses and watersheds will be improved; and

5. Post-mining uses different from and as beneficial as the pre-mining uses.

(k) Receive and expend funds or aid from whatever source to accomplish the purposes of this chapter.

(l) Propose and promulgate regulations to accomplish the purposes of this section.

(4) The cabinet shall not promulgate regulations which are inconsistent with the Surface Mining Control and Reclamation Act of 1977**,** [~~(~~]PL 95-87[~~)~~].

(5) Any person who violates a provision of this section or the regulations promulgated pursuant thereto shall be subject to those penalties and remedies set forth in KRS 350.990 except as provided for in subsection (3)(h) ***of this section*** [~~herein~~].

Section 35. KRS 350.990 is amended to read as follows:

(1) Any ***permittee,*** person**,** or operator who violates any of the provisions of this chapter or regulations adopted pursuant thereto or who fails to perform the duties imposed by these provisions, except the refusal or failure to obtain a permit or other authorization as provided in this chapter, or who violates any determination or order promulgated pursuant to the provisions of this chapter, may be liable to a civil penalty of not more than five thousand dollars ($5,000) for the violation, and an additional civil penalty of not more than five thousand dollars ($5,000) for each day during which the violation continues, and in addition, may be enjoined from continuing the violations provided in this section. Any ***permittee,*** operator**,** or person who fails to abate a violation noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement shall be assessed a civil penalty of not less than seven hundred fifty dollars ($750) for each day during which the violation continues. A civil penalty of not more than five thousand dollars ($5,000) for each day shall be assessed against any person issued an order pursuant to KRS 350.130(4). Each day of continuing violation may be deemed a separate violation for purposes of penalty assessment. The cabinet shall develop a method for calculating monetary penalties and shall promulgate it as an administrative regulation. The secretary or a designated representative, upon his or her own initiative or upon written request received within fifteen (15) days after the cabinet mails its proposed penalty assessment, may waive the use of the method for calculating monetary penalties if he or she determines that, taking into account exceptional factors present in the particular case, the penalty is demonstrably unjust. The basis for every waiver shall be fully explained and documented in the records of the case. If the secretary or his or her designated representative waives the use of the formula, he or she shall determine the appropriate penalty upon consideration of the permittee's history of previous violations at the particular surface coal mining operation, the seriousness of the violation, whether the permittee was negligent, and the demonstrated good faith of the permittee charged in attempting to achieve rapid compliance after notification of the violation. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the cabinet's Department of Law. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders and administrative regulations of the cabinet promulgated pursuant thereto. All sums recovered shall be placed in the State Treasury, except those moneys collected in excess of eight hundred thousand dollars ($800,000) in any fiscal year shall be deposited in the bond pool fund for purposes set forth in KRS 350.595 and 350.700 to 350.755. All moneys previously deposited in the abandoned mine land enhancement fund shall be redeposited in the bond pool fund.

(2) Any person ***or operator*** who engages in surface coal mining operations without first securing a permit, as provided in KRS 350.060, or any person who engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person ***or operator*** who engages in other mining operations, without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, shall be liable to a civil penalty for damages to the Commonwealth of not less than five thousand dollars ($5,000) nor more than twenty-five thousand dollars ($25,000) and in addition, may be enjoined from continuing the violations. Each day shall constitute a separate violation. In addition to the foregoing penalties, any ***permittee,*** person**,** or operator who fails to abate a violation of KRS 350.060 or KRS 350.029 or KRS 350.057, as noted in a notice of noncompliance or an order for immediate compliance and cessation within the time period prescribed for the abatement, shall be assessed an additional civil penalty of not less than seven hundred and fifty dollars ($750) for each day during which the violation continues. However, the penalties provided in subsection (1) of this section shall apply in lieu of the penalties provided in this subsection where an operator ***or permittee*** through inadvertence has exceeded the boundaries or expiration date of the permit in effect at that time.

(3) The cabinet's Department of Law shall bring an action for the recovery of penalties and bring an action for a restraining order, temporary or permanent injunction, against any ***permittee,*** operator, or person violating or threatening to violate any of the provisions of this chapter or violating or threatening to violate any order or determination promulgated pursuant to the provisions of this chapter. The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil and injunctive actions instituted by the cabinet for the enforcement of the provisions of this chapter or the orders, and administrative regulations of the cabinet promulgated pursuant thereto.

(4) Any ***permittee, operator, or*** person who knowingly and willfully violates any of the provisions of this chapter, except as provided in subsection (5) of this section, or any determination or order promulgated pursuant to the sections of this chapter which have become final, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than ten thousand dollars ($10,000) or by imprisonment for not more than one (1) year, or both. Each day on which the violation occurs may constitute a separate offense.

(5) (a) Any person ***or operator*** who, in violation of KRS 350.060(1)(a) willfully and knowingly engages in surface coal mining operations without first obtaining a permit from the cabinet, or any person ***or operator*** who willfully and knowingly engages in coal exploration operations, exclusive of core drilling, without proper authorization, as required by the cabinet pursuant to KRS 350.057 or administrative regulations promulgated pursuant thereto, or any person ***or operator*** who willfully and knowingly engages in other mining operations without proper authorization as required by this chapter or administrative regulations promulgated pursuant thereto, with the intent to violate the laws, shall be guilty of a Class D felony and upon conviction shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(b) Any person ***or operator*** who in violation of KRS 350.060(1)(b) willfully and knowingly receives, transports, sells, conveys, transfers, trades, exchanges, donates, purchases, delivers, or in any way derives benefit from coal removed from any surface mining operations conducted in violation of KRS 350.060(1)(a) or 350.057 shall be guilty of a Class D felony and upon conviction thereof shall be imprisoned for at least one (1) but not more than five (5) years and may be fined an amount not to exceed ten thousand dollars ($10,000).

(6) Any person who violates any of the provisions of KRS 350.600 or administrative regulations promulgated pursuant thereto shall be subject to civil penalties of not more than twenty-five thousand dollars ($25,000). Each day of continuing violation shall be deemed a separate violation.

(7) Any ***permittee, operator, or*** person who knowingly makes any false statement, representation or certification, or knowingly fails to make any statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained by the cabinet, shall upon conviction be guilty of a misdemeanor and shall be imprisoned for a term of up to one (1) year, or be fined not more than ten thousand dollars ($10,000), or both.

(8) Except as permitted by law, any ***permittee, operator, or*** person who willfully and knowingly resists, prevents, impedes, or interferes with the secretary or other personnel of the cabinet in the performance of duties pursuant to this chapter shall, upon conviction, be fined not more than five thousand dollars ($5,000) or imprisoned for not more than one (1) year, or both.

(9) When a corporate permittee violates any provision of this chapter or administrative regulation issued pursuant thereto or fails or refuses to comply with any final order issued by the secretary, any director, officer, or agent of the corporation who willfully and knowingly authorized, ordered, or carried out the violation, failure, or refusal shall be subject to the same civil penalties, fines, and imprisonment as may be imposed upon a person pursuant to this section.

(10) Upon notice by the secretary that any surety has failed to comply with the provisions of KRS 350.032(3), the commissioner of the Kentucky Department of Insurance shall revoke the surety's certificate of authority to conduct insurance business within the Commonwealth of Kentucky.

(11) The cabinet, upon written request by any ***permittee,*** person, or operator subject to any penalty assessment under this section and pursuant to procedures, if any, set forth by administrative regulation and after consultation with the local county fiscal court, may allow as an alternative to the payment of any assessed penalty under this section the performance of in-kind reclamation, environmental rehabilitation, or similar action to correct environmental pollution. The in-kind work shall not substitute for those remedial measures mandated by the cabinet for the correction of any violations. The estimated cost of the in-kind work shall be greater than the penalty assessment. The cabinet Division of Abandoned Lands shall have the authority to approve proposed in-kind projects and to recommend projects to the cabinet, and shall determine whether

the estimated cost of the in-kind work exceeds the penalty assessment. For the purposes of this subsection, the cost of the in-kind work shall include only those expenditures for actual on-site reclamation or rehabilitation work, including direct equipment, personnel and material cost, but excluding administrative overhead or transportation costs. Failure to perform the in-kind work as agreed upon by the person or operator subject to the penalty assessment shall reinstate the liability of the person, ***permittee,*** or operator for the full amount of the assessed penalty. The cabinet may prepare and promulgate administrative regulations as are necessary to implement and administer the provisions of this subsection.

SB 318, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) All hearings, other than conferences, under this chapter shall be held before a hearing officer, duly qualified to practice law in the Commonwealth of Kentucky, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis in the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall within thirty (30) days make to the secretary a report and recommended order which shall contain a finding of fact and a conclusion of law. If the secretary finds upon written request of the hearing officer that additional time is needed, the secretary may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record and their attorney of record to the proceeding, and they shall be granted the right to file exceptions thereto within fourteen (14) days of service. Any party may submit a written response to exceptions within twenty-one (21) days of service of the report and recommended order. Exceptions and responses not timely filed shall be noted and made a part of the record but shall not be considered by the secretary in making a final order. The secretary shall consider the report, exceptions, and recommended order and decide the case. The decision shall be served by mail upon all parties and their attorney of record and shall be a final order of the cabinet.

(2) Any party to a hearing under this subsection may be represented by counsel, may make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of these actions. The record of the hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original.

(3) All hearings conducted pursuant to this chapter shall be open to the public except as may be ordered by the hearing officer.

(4) The cabinet shall promulgate administrative regulations, pursuant to the provisions set forth in this chapter, establishing formal and informal hearing procedures by which any hearing shall, upon the written request of the operator, permittee, or person, be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The administrative regulations shall provide for the conduct of hearings and investigation of any matter relating to the regulation of surface coal mining and reclamation operations; provide for the assessment and payment of civil penalties, including the placement of proposed civil penalty assessments into an escrow account prior to a formal hearing on the amount of the assessment; and provide for a waiver of the placement of the proposed civil penalties into escrow for those individuals who demonstrate with substantial evidence an inability to pay the proposed civil penalties into escrow. The procedures developed pursuant to this subsection shall provide that the hearings be held in the most expeditious manner possible within the time constraints established under this chapter. No person who presided at a prior hearing shall either preside at a subsequent hearing or participate in any further decision or subsequent administrative appeal in the same matter.

(5) The cabinet may promulgate administrative regulations pursuant to the provisions set forth in this chapter establishing procedures for the holding of administrative conferences needed to implement the provisions of this chapter.

SECTION 2. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) Any person who considers himself aggrieved by any determination made by the cabinet under this chapter may file, in accordance with regulations promulgated by the cabinet under the provisions of KRS Chapter 350, a petititon alleging that the determination is contrary to law or fact and is injurious to him, the grounds and reasons therefor, and demand a hearing. Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of the notice unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing

pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the determination complained of, or could reasonably have had notice.

(2) Any party aggrieved by a final order resulting from the hearing conducted pursuant to this section may appeal to the Franklin Circuit Court. The appeal shall be taken within thirty (30) days from the rendition of the final order. The party or parties affected by the final order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and shall assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the cabinet. Summons shall issue upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that the record is its entire original record or a true copy. The record, when filed, shall become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties, upon proper showing, and in the discretion of the court, be permitted to intervene. The court shall review the entire record and the findings and final order of the cabinet. No objection to the final order shall be considered by the court unless it was raised before the cabinet or there were reasonable grounds for failure to do so. The findings of the cabinet as to the facts, if supported by substantial evidence, shall be conclusive. The commencement of the proceedings under this section shall not operate as a stay of the cabinet's final order unless specifically ordered by the court. Appeals to the Court of Appeals from orders of the Circuit Court shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

Section 3. KRS 350.028 is amended to read as follows:

The Natural Resources and Environmental Protection Cabinet shall have and exercise the following authority and powers:

(1) To adopt ***administrative*** [~~rules and~~] regulations after a hearing pertaining to surface coal mining operations including strip mining and the surface effects of underground mining to accomplish the purposes of this chapter;

(2) To conduct investigations and hearings under provisions of this chapter [~~and KRS Chapter 224~~] or regulations adopted pursuant thereto;

(3) To issue, after an opportunity for a hearing, suspension orders or show cause orders requiring an operator to adopt [~~such~~] remedial measures ***that*** [~~as~~] are necessary to comply with this chapter and ***administrative*** regulations adopted pursuant thereto.[~~, provided that~~] Failure to attend a hearing shall be excused for good cause shown;

(4) To issue after an opportunity for a hearing, a final order imposing civil penalties for violations of this chapter or directing the Kentucky Bureau of Surface Mining Reclamation and Enforcement to revoke a permit, when the requirements set forth by the notice of noncompliance, order of cessation, or an order of the cabinet requiring remedial measures have not been complied with according to the terms therein.[~~, provided that~~] The secretary or his authorized representatives ***shall*** determine that a pattern of violations of the requirements of this chapter or any permit conditions required by this chapter exist or have existed, and [~~if the secretary or his authorized representatives also find~~] that ***the*** [~~such~~] violations are caused by the unwarranted failure of the permittee to comply with any requirements of this chapter or any permit conditions or that ***the*** [~~such~~] violations are willfully caused by the permittee.[~~, provided further that~~] Failure to attend a hearing shall be excused for good cause shown; and

(5) To adopt ***administrative*** [~~rules and~~] regulations to allow the state to administer and enforce the initial and permanent regulatory programs of Public Law 95-87, "Surface Mining Control and Reclamation Act of 1977." [~~provided that such rules and~~] ***Administrative*** regulations shall be no more stringent than required by ***that*** [~~such~~] law.[~~; provided further that~~] Nothing in this chapter shall be construed as superseding, amending, modifying, or repealing any of the Acts listed in Section 702(a) of Public Law 95-87, or any ***administrative*** [~~rule or~~] regulation promulgated thereunder.

Section 4. KRS 350.090 is amended to read as follows:

(1) Under the provisions of this chapter and ***administrative*** regulations adopted by the cabinet, an operator shall prepare and carry out a method of operation, plan of grading and backfilling, and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading, and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams, and all other public property from soil erosion, rolling stones and overburden, water pollution, and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the cabinet and, except for applications or renewals submitted in compliance with KRS 350.060(2), the cabinet shall notify the applicant

by certified mail, return receipt requested, within sixty-five (65) cumulative working days after receipt of a complete application ***whether*** [~~if~~] it is [~~or is not~~] acceptable. ***If*** [~~In the event that~~] applicable notice, hearing, and conference procedures prevent a decision from being issued within the sixty-five (65) cumulative working day period, the cabinet shall have additional reasonable time to issue its decision, [~~but~~] not to exceed twenty (20) days from the completion of the notice, hearing, and conference procedures. If the permit application is not acceptable, the cabinet shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas, or reject the entire application. ***If***[~~Should~~] the applicant ***disagrees*** [~~disagree~~] with the decision of the cabinet, he may, by written notice, request a hearing conducted by the cabinet in the manner provided by ***Section 2 of this Act***[~~KRS 224.10-440~~]. The cabinet shall notify the applicant by certified mail, return receipt requested, within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the cabinet may appeal through the courts as set forth in ***Section 2 of this Act***[~~KRS 224.10-470~~].

(2) If the operator desires to seek funds from the reclamation development fund to develop an economic development unit during reclamation, the operator shall submit, along with the reclamation plan, a reclamation development plan outlining the reclamation development project and showing how it will conform with the reclamation standards of this chapter.

(3) No operator shall throw, dump, pile, or permit the dumping, piling, or throwing, or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place ***the*** [~~such~~] materials herein described in [~~such~~] a way that normal erosion or slides brought about by natural physical causes will permit the materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.

Section 5. KRS 350.255 is amended to read as follows:

(1) Any person may petition the secretary of the Natural Resources and Environmental Protection Cabinet to initiate a proceeding for the issuance, amendment, or repeal of any regulation under this chapter.

(a) Notice and an opportunity shall be provided for the petitioner and any person wishing to participate to be heard at a public hearing within thirty (30) days following the filing of the petition on the facts, technical justification, and law alleged in the petition.

(b) The secretary shall render a final order in writing within thirty (30) days after the hearing granting or denying the petition on grounds that there is a reasonable basis for the petitioned rule change, or is not, or that it is required or prohibited by law and setting forth the reasons for the decision.

(c) The secretary shall initiate a rulemaking proceeding pursuant to KRS Chapter 13A within thirty (30) days after a petition is granted proposing the issuance, amendment, or repeal of the petitioned regulations in conformity with the final order.

(d) Any participant in the petition proceedings may seek review in the Circuit Court of Franklin County of a final order of the secretary denying all or any portion of the action requested in a petition.

[~~(2) The cabinet shall promulgate regulations pursuant to the provisions set forth in this chapter establishing formal and informal hearing and conference procedures whereby any such hearing or conference shall upon the written request of the operator, be held in the county or regional office where the surface coal mining operation is located, before an impartial hearing officer who is independent of any prosecutorial functions of the cabinet. The procedures developed pursuant to this subsection will provide that such hearings and conferences be held in the most expeditious manner possible within the minimum time constraints established under this chapter; all such actions shall be adjudicatory in nature; and no person who presided at a prior hearing or conference shall either preside at a subsequent hearing in the same matter or participate in any further decision or any subsequent administrative appeal. No regulation or administrative practice relating to conferences or hearings shall authorize the imposition or collection of a civil penalty, or the compromise of a dispute relating to an alleged violation, by any cabinet personnel other than an independent, impartial hearing officer in the course of a formal or informal hearing or conference.~~]

The Committee Amendment No. 1 to **SB 318** is as follows:

Amend printed copy of **SB 318/GA** on page 6, line 21 before "The", by inserting "***When the***" and by placing brackets around and striking through "The" and after "representatives" by deleting "***shall***"; and

On line 22 by placing brackets around and striking through "determine" and by inserting in lieu thereof "***determines***" and after the second "of" by inserting "***any***" and by placing brackets around and striking through "the"; and

On line 24 after "chapter" by inserting "***exists***" and by placing brackets around and striking through "exist" and after "or" by inserting "***has***" and by placing brackets around and striking through "have"; and

On lines 24 and 25, by removing the brackets and strike-throughs; and

On page 7, on line 2, after that, by deleting "***the***" and by removing the brackets and strike throughs around [~~such~~]; and

On line 3 after "permittee" by inserting "***,the secretary or his authorized representative shall forthwith issue an order to the permittee to show cause as to why the permit should not be suspended or revoked and shall provide an opportunity for a hearing***".

The Committee on State Government reported **HB 781, HB 797, HB 805**, with Committee Substitute and Title Amendment attached thereto, **HB 892, HB 948, SB 41, SB 130, SB 147, SB 148, SB 149, SB 150, SB 159, SB 267, SB 309, SB 351, SCR 65** and **SJR 69** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 781, AN ACT relating to deferred compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.245 is amended to read as follows:

(1) The system shall be administered by a board of trustees composed of five (5) members, who shall be as follows:

(a) Commissioner of insurance, ex officio;

(b) Secretary, Finance and Administration Cabinet, ex officio;

(c) Commissioner of personnel, ex officio;

(d) Two (2) members appointed by the Governor of the Commonwealth. Of these two (2) members, it is recommended that one (1) be the general manager of Kentucky retirement systems.

(2) The members of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of forty-five dollars ($45) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The Department of Personnel shall perform the administrative functions of the board, which shall be attached to the department for purposes of administration. The board may, but is not limited to the following actions:

(a) Appoint such employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the commissioner;

(b) Require such employees as it thinks proper to execute bonds for the faithful performance of their duties;

(c) Establish a system of accounting;

(d) Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;

(e) ***Require employers of employees to:***

1. Provide access to employees for the purpose of advising employees of the programs offered by the board; and

2. Submit to the board reports including, but not limited to, payroll information on all employees, whether or not participating in a deferred compensation plan, to enable the board to comply with the requirements of the United States Internal Revenue Code and regulations.

(f) Do all things, take all actions and make all rules and administrative regulations, not inconsistent with the provisions of KRS 18A.230 to 18A.275.

(8) All employees of said board shall serve during its will and pleasure.

(9) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.

(10) The board shall prepare an annual financial report showing all receipts, disbursements, assets and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

Section 2. KRS 18A.250 is amended to read as follows:

(1) Subject to the approval of the board of trustees of the Kentucky State Public Employees Deferred Compensation System, the Department of Personnel shall establish and maintain a deferred compensation plan for the employees of the State of Kentucky. Participation in such plan shall be by a specific written agreement between such employees and the state and shall provide for the deferral of such amount of compensation as requested by the employee. Participating employees must authorize that such deductions be made from their wages for the purpose of participation in such program. Amounts so deducted shall be deposited in the State Treasury to the credit of the trust fund.

(2) The board is directed to develop and obtain, for the benefit of employees, a qualified employee plan that includes a qualified cash or deferred arrangement as described in Section 401(K)(2) of the Internal Revenue Code. The board is directed to develop a program for participants to borrow from their account or accounts in the plan. The plan shall be in addition to other plans offered by the board, and shall be offered to employees upon receipt of appropriate approval of the Internal Revenue Service or on January 1, 1985, whichever occurs later.

(3) The board shall offer the deferred compensation programs set out in subsections (1) and (2) of this section to all employees of state government and agencies thereof, including public colleges and universities, and all public boards of education.

HB 797, AN ACT relating to the Kentucky Public Employees Deferred Compensation System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.245 is amended to read as follows:

(1) The system shall be administered by a board of trustees composed of ***seven (7)*** [~~five (5)~~] members, who shall be as follows:

(a) ***Executive Director of the Office of Financial Management, ex officio;***

(b) Commissioner of insurance, ex officio ***who shall serve as a non-voting advisor to the board***;

(c)[~~(b)~~] Secretary, Finance and Administration Cabinet, ex officio;

(d)[~~(c)~~] Commissioner of personnel, ex officio;

(e) General manager Kentucky Employees Retirement Systems, ex officio;

(f) Executive secretary Teachers' Retirement System, ex officio; and

(g)[~~(d)~~] ***One (1) member*** [~~Two (2) members~~] appointed by the Governor of the Commonwealth. Of ***the two (2) trustee positions presently held by appointees of the Governor, the position which has the earliest expiration date shall be abolished, and to the appointee's term shall be adjusted to expire upon the effective date of this Act*** [~~these two (2) members, it is recommended that one (1) be the general manager of Kentucky retirement systems~~].

(2) The ***member*** [~~members~~] of the board appointed by the Governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists, and no member shall be subject to removal from office, except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the State Treasury shall receive a per diem of forty-five dollars ($45) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards applicable to state employees.

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) The Department of Personnel shall perform the administrative functions of the board, which shall be attached to the department for purposes of administration. The board may, but is not limited to, the following actions:

(a) Appoint [~~such~~] employees as it deems necessary and fix the compensation for all employees of the board, subject to the approval of the commissioner;

(b) Require [~~such~~] employees [~~as~~] it thinks proper to execute bonds for the faithful performance of their duties;

(c) Establish a system of accounting;

(d) Contract for [~~such~~] services [~~as may be~~] necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;

(e) Do all things, take all actions, and make all [~~rules and~~] administrative regulations, not inconsistent with the provisions of KRS 18A.230 to 18A.275.

(8) All employees of ***the*** [~~said~~] board shall serve during its will and pleasure.

(9) The Attorney General, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.

(10) The board shall prepare an annual financial report showing all receipts, disbursements, assets, and liabilities and shall submit a copy to the Governor and the Legislative Research Commission. All board meetings and records shall be open for inspection by the public.

Section 2. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the administrative regulations of the board of trustees. It shall appoint an executive secretary and fix the compensation for this position without limitation of the provisions of KRS Chapter 18A and KRS 64.640. The executive secretary shall be the chief administrative officer of the board.

The compensation set by the board of trustees for the position of executive secretary may provide for the same annual leave, sick leave, insurance, and similar benefits as provided for other employees of the retirement system. The executive secretary, at the time of appointment or selection, shall be a graduate of a standard four (4) year college, and shall possess [~~such~~] other qualifications [~~as~~] the board of trustees may require by regulation. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of appointment or selection. ***The executive secretary shall serve as a member of the board of trustees of the Kentucky State Public Employees Deferred Compensation System, by virtue of office, at no additional compensation.***

(2) The board shall employ [~~such~~] clerical, administrative, and other personnel [~~as are~~] required to transact the business of the retirement system. The compensation of all [~~such~~] persons employed by the board shall be paid at [~~such~~] rates and in [~~such~~] amounts [~~as~~] the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employees in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for [~~such~~] actuarial, auditing, medical, investment counseling, and other professional or technical services [~~as are~~] required to carry out the obligations of the board without limitations of KRS Chapters 56 and 45A, and shall provide for legal counsel and [~~such~~] other legal services [~~as may be~~] required in defense of trustees, officers, and employees of the system who may be subjected to civil action arising from the performance of their legally assigned duties ***if*** [~~in the event such~~] counsel and services are not provided by the Attorney General.

(4) The board shall require the trustees, executive secretary, and [~~such~~] employees [~~as~~] it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employees, and officials of the Teachers' Retirement System against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

Section 3. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the Board of Trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The Commissioner of Personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) The state local finance officer shall serve as trustee for as long as he occupies the position of state local finance officer under KRS 147A.020, except as provided under subsections (5) and (6) of this section;

(c) Two (2) trustees, who ***shall*** [~~must~~] be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(d) One (1) trustee, who ***shall*** [~~must~~] be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(e) Two (2) trustees, who ***shall*** [~~must~~] be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System;

(f) Two (2) trustees, appointed by the Governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require without limitations of KRS 45A.045;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any [~~such~~] property [~~as~~] its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until ***the*** [~~such~~] elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978;

(d) The state local finance officer shall have an initial term beginning on April 1, 1992.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by ***the*** [~~said~~] retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and ***if*** [~~should~~] the Commissioner of Personnel or the state local finance officer ***resigns*** [~~resign~~] his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and ***if*** [~~should~~] a trustee ***serves*** [~~be~~] in more than one (1) position as trustee on the board, he ***shall be*** [~~is~~] hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of sixty dollars ($60) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board. ***The general manager shall serve as a member of the Kentucky State Public Employees Deferred Compensation System board of trustees, by virtue of office, with no additional compensation***;

(b) Authorize the general manager to appoint ***the*** [~~such~~] employees [~~as~~] he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the Commissioner of Personnel;

(c) Require the general manager and ***the*** [~~such~~] employees [~~as~~] it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) ***The general manager shall serve as a member of the Kentucky State Public Employees Deferred Compensation System board of trustees, by virtue of office, with no additional compenstation.*** Do all things, take all actions and make all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705, 16.510 to 16.652, and 78.520 to 78.852 are in conflict with federal statute or regulation, ***the*** [~~such~~] provisions shall not be available to the member and the board shall have the authority to adopt alternative administrative regulations that are in conformance with federal statute and regulation.

(10) All employees of ***the*** [~~said~~] board shall serve during its will and pleasure.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes, and other information distributed to trustees of the board. [~~and~~] The Attorney General may act as legal adviser and attorney for the board, and the board ***may*** [~~is hereby authorized to~~] contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in [~~such~~] other places [~~as may be~~] necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred twenty (120) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

HB 805, AN ACT relating to claims upon the treasury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 44.072 is amended to read as follows:

It is the intention of the General Assembly to provide the means to enable a person negligently injured by the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies to be able to assert their just claims as [~~herein~~] provided ***in this section and KRS 44.073***. The Commonwealth thereby waives the sovereign immunity defense only in the limited situations as herein set forth. It is further the intention of the General Assembly to otherwise expressly preserve the sovereign immunity of the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting in the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies in all other situations except where sovereign immunity is specifically and expressly waived as set forth by statute. ***It is the intention of the General Assembly to establish by statute the common law immunity of employees of the Commonwealth in their individual and in their official capacity in performance, supervision, administration, or planning of a discretionary public function while acting within the scope of their employment by the Commonwealth; and to define a discretionary public function. Any person who claims to be injured by a discretionary act shall have a remedy against the Commonwealth by an action in the Board of Claims.*** The Board of Claims shall have exclusive jurisdiction to hear claims for damages, except as otherwise specifically set forth by statute, against the Commonwealth, its cabinets, departments, bureaus, agencies, or any of its officers, agents, or employees, ***in their individual or official capacity in the performance, supervision, or planning of a discretionary public function*** while acting within the scope of their employment by the Commonwealth, its cabinets, departments, bureaus, or agencies.

Section 2. KRS 44.073 is amended to read as follows:

(1) For purposes of KRS 44.072, state institutions of higher education under KRS Chapter 164 are agencies of the state.

(2) The Board of Claims shall have primary and exclusive jurisdiction over all [~~negligence~~] claims for ***negligence*** [~~the negligent performance of ministerial acts~~] against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof ***in their individual or official capacity in the performance, supervision, or planning of a discretionary public function*** while acting within the scope of their employment by the Commonwealth, or any of its cabinets, departments, bureaus, or agencies.

(3) ***"Discretionary public function" as used in this section means a state service affecting the public where the state employee may exercise reason and judgment in deciding how or whether an act should be performed. If the law prescribes and defines the duty to be performed with such precision and certainty as to leave nothing to the exercise of decision or judgment, the act is ministerial. A discretionary public function may be performed at the policy-making or the operational level, except the operation of a motor vehicle on a public highway shall not be considered a discretionary public function.***

(4) Any act of a state officer, agent, or employee performed in the course and scope of employment with the state shall be deemed to be performed in the person's official capacity and not in his individual capacity.

(5) The Board of Claims shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth, or any of its cabinets, departments, bureaus, or agencies, or any officers, agents or employees, thereof.

(6)[~~(4)~~] The Board of Claims shall have primary and exclusive jurisdiction to make findings of fact, conclusions of law, and legal determinations with regard to whether the alleged negligent act was on the part of the Commonwealth or any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.

(7)[~~(5)~~] No action for negligence against the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any officers, agents, or employees thereof may be brought initially in any other court or forum in the Commonwealth except the Board of Claims until the Board of Claims makes a determination, that has become final, that the Board of Claims has or does not have primary and exclusive jurisdiction over the claim.

(8)[~~(6)~~] The determination by the Board of Claims becomes final only after all appellate rights have been finalized or waived.

(9)[~~(7)~~] Any applicable statute of limitations for bringing negligence actions in any court or forum other than the Board of Claims shall be tolled pending the final determination that the Board of Claims does not have primary and exclusive jurisdiction of the negligence claim.

(10)[~~(8)~~] No action for negligence ***shall*** [~~may~~] be brought in any court or forum other than the Board of Claims against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or ***against*** any of its officers, agents, or employees ***in the performance, supervision, or planning of a discretionary public function*** while acting within the scope of their employment by the Commonwealth, or any of its cabinets, departments, bureaus, or agencies.

(11)[~~(9)~~] Negligence as used herein includes negligence, gross negligence, or wanton negligence.

(12)[~~(10)~~] The defense of contributory negligence ***shall*** [~~is~~] not ***be*** a complete bar to recovery of plaintiff's claim in the Board of Claims and the doctrine of comparative negligence shall be utilized by the board.

(13)[~~(11)~~] Except as otherwise provided by KRS Chapter 44, nothing contained ***in this section or Section 1 of this Act*** [~~herein~~] shall be construed to be a waiver of sovereign immunity or any other immunity or privilege maintained by the Commonwealth, its cabinets, departments, bureaus, and agencies and its officers, agents, and employees.

(14)[~~(12)~~] Except as otherwise specifically set forth by statute and in reference to subsection ***(13)*** [~~(11)~~] of this section, no action for damages ***shall*** [~~may~~] be maintained in any court or forum against the Commonwealth, any of its cabinets, departments, bureaus, or agencies or any of its officers, agents, or employees while acting within their official capacity and scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies.

(15)[~~(13)~~] The preservation of sovereign immunity referred to in subsections ***(13)***[~~(11)~~] and ***(14)***[~~(12)~~] of this section includes, but is not limited to, the following:

(a) Discretionary acts or decisions;

(b) Executive decisions;

(c) Ministerial acts;

(d) Actions in the performance of obligations running to the public as a whole;

(e) Governmental performance of a self-imposed protective function to the public or citizens; and

(f) Administrative acts.

(16)[~~(14)~~] The filing of an action in court or any other forum or the purchase of liability insurance or the establishment of a fund for self-insurance by the Commonwealth, its cabinets, departments, bureaus, or agencies or its agents, officers, or employees [~~thereof~~] for a government related purpose or duty shall not be construed as a waiver of sovereign immunity or any other immunity or privilege [~~thereby held~~]. Except as specifically set forth by statute, no counterclaim, setoff, recoupment, cross-claim, or other form of avoidance of the claim for damages ***shall*** [~~may~~] be asserted by any person when suit is brought against ***the*** [~~said~~] person by the Commonwealth or any of its cabinets, departments, bureaus, or agencies thereof.

(17)[~~(15)~~] Neither the Commonwealth nor any of its cabinets, departments, bureaus, or agencies or any officers, agents, or employees thereof shall be liable under a respondeat superior theory or any other similar theory for the acts of independent contractors, contractors, or subcontractors thereof or anyone else doing work or providing services for the state on a volunteer basis or pursuant to a contract therewith.

Section 3. KRS 44.160 is amended to read as follows:

(1) Any action prosecuted to award, judgment, or final decision, including dismissal, under the provisions of KRS 44.070 to 44.160 shall preclude the right of a claimant to sue the Commonwealth, its cabinets, departments, bureaus, or agencies, or its officers, agents, or employees in the Board of Claims or any other forum, except as provided in KRS 44.073***(7)***[~~(5)~~] when the board determines that it has no jurisdiction over the claim.

(2) The final determination of the board shall be given the same res judicata and collateral estoppel effect as any other judicial determination; and, if entered as provided in KRS 44.130, it shall be granted the full faith and credit given to judgments from the Commonwealth's courts in this state and the courts of the United States.

The Committee Substitute to **HB 805** is as follows:

HB 805, AN ACT relating to claims upon the treasury.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Interim Joint Committee on State Government of the Legislative Research Commission shall study the advisability and comparative cost of either providing liability insurance for state family-service workers or placing jurisdiction over claims against them in their official capacity and involving a discretionary public function in the Board of Claims, as claims against the Commonwealth.

Section 2. The Interim Joint Committee on State Government shall report its findings and recommendations to the Legislative Research Commission by July 1, 1993.

Section 3. Staff services to be utilized in completing this study are estimated to cost $10,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee Title Amendment to **HB 805** is as follows:

Amend printed copy of **HB 805** by deleting the words "relating to claims upon the treasury" and inserting in lieu thereof "directing a study of methods of providing for liability coverage for state family service workers".

HB 892, AN ACT relating to the duties of the adjutant general.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.040 is amended to read as follows:

The adjutant general shall:

(1) Represent the Governor in all military matters pertaining to the Commonwealth of Kentucky;

(2) Be the executive head of the Department of Military Affairs and exercise all functions vested by law in the department;

(3) Be responsible to the Governor for the proper carrying into effect of all laws, rules, and regulations of the United States and of this state affecting the militia and other military organizations established by law;

(4) Perform the duties prescribed for him by laws of the United States and regulations issued thereunder;

(5) Direct and supervise the chiefs of staff departments and supervise all troops and all departments, arms and branches of the Kentucky Army and Air National Guard;

(6) Supervise the preparation of all returns and reports of the Department of Military Affairs;

(7) Keep a register of all the officers of the Kentucky National Guard, and make a written report to the Governor for the annual period ending on June 30 of each year of the operations and conditions of the Department of Military Affairs;

(8) Cause to be prepared and issued all necessary blank books, forms, and notices required to carry into full effect the provisions of KRS chapters 36, 37 and 38;

(9) Direct and supervise the safekeeping and repairing of the ordinance, arms, accouterments, equipment, and all other military property belonging to the state or issued to it by the United States;

(10) Notify the Finance and Administration Cabinet of all military property of the state which, after inspection, is found unsuitable for use of the cabinet;

(11) Keep an account of:

(a) All expenses, including pay of officers and enlisted men, allowance to officers, and organizations;

(b) Any other moneys required to be disbursed by him and through his office, including subsistence and transportation of the National Guard;

(c) All military property of the United States.

(12) Issue and make requisitions for military property under the direction of the Governor, but no military property shall be issued to persons or organizations other than those belonging to the National Guard, except to ***the*** [~~such~~] portion of the Kentucky active militia [~~as is~~] called out by the Governor;

(13) Maintain as a part of his office a Bureau of War Records in which all records pertaining to wars and relics shall be kept, and be custodian of all ***the*** [~~such~~] records, relics, colors, standards, and battle flags now the property of the state, or in its possession, or which the state may hereafter acquire;

(14) Organize units of the National Guard at places designated by the Governor and have the members [~~thereof~~] mustered into service under regulations prescribed by the Governor;

(15) Issue all regulations, orders and directives for the proper functioning and utilization of the ***Department of Military Affairs and its divisions*** [~~Kentucky National Guard~~].

HB 948, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.111 is amended to read as follows:

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, and except as provided in KRS 18A.005, an employee shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employee may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal, except as provided by KRS 18A.095. If the employee is separated from his position, he shall be notified in writing at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. The employee shall be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employee prior to the end of the initial probationary period that he is separated, the employee shall be deemed to have served satisfactorily and shall acquire status in the classified service.

(2) An employee who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized, except as provided by the provisions of this chapter.

(3) ***(a) Except as provided by paragraph (b) of this subsection, the probationary period for an employee who is reinstated or rehired shall not exceed six (6) months.***

(b) An employee ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise, as provided in KRS 18A.095.

(4) An employee with status, who has been promoted, shall serve a promotional probationary period of six (6) months, except for those employees granted leave in excess of twenty (20) consecutive work days during this period. ***The*** [~~Such~~] probationary periods shall be extended as prescribed in KRS 18A.005. During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employees.

(5) An employee with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.

(6) A laid-off employee who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. ***The*** [~~Such an~~] employee shall serve a promotional probationary period. He shall be an employee with status and shall have all rights and privileges granted employees with status under the provisions of this chapter.

SB 41, AN ACT relating to state veterans' cemeteries and declaring an emergency.

WHEREAS, the United States Department of Veterans Affairs has determined that no additional national veterans cemeteries will be constructed in Kentucky; and

WHEREAS, the General Assembly is desirous of establishing a lasting and perpetual place for Kentucky's veterans to rest with dignity and honor and has determined the establishment of state veterans' cemeteries to be in the best interest of the veterans of the Commonwealth; and

WHEREAS, it is the purpose of this Act to authorize the establishment of state veterans' cemeteries, to promote their construction or renovation, and to assign administrative responsibility for their planning and operation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 36 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Military Affairs shall establish and maintain state veterans' cemeteries in the Commonwealth for the purpose of providing for the interment of Kentucky veterans of the United States Armed Forces and for their next of kin, as determined by the department.

(2) The Kentucky state veterans' cemeteries shall be under the administrative authority and control of the Department of Military Affairs. The Department of Military Affairs may promulgate administrative regulations necessary to operate the cemeteries in compliance with applicable state and federal statutes and regulations.

(3) The Department of Military Affairs is authorized to seek federal and private funding for the construction, renovation, and operation of Kentucky state veterans' cemeteries.

Section 2. The United States Department of Veterans Affairs has determined that no additional national veterans' cemeteries will be constructed in Kentucky. Federal matching funds will be available, on a limited basis, to states who establish state veterans cemetery programs, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

SB 130. AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.095 is amended to read as follows:

(1) A classified employee with status shall not be dismissed, demoted, suspended or otherwise penalized except for cause.

(2) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time and place of such action or activity; and

4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or his deputy.

(3) The department shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or his deputy, to each appointing authority. Such form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives such notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or his deputy.

(5) Such appearance shall be scheduled six (6) working days after receipt of an employee's request to appear before the head of the cabinet or his deputy, excluding the day his request is received.

(6) No later than five (5) working days after the employee appears before the head of the cabinet or his deputy, excluding the day of the appearance, the cabinet head or his deputy shall:

(a) Determine whether to dismiss the employee or to alter, modify or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(7) If the cabinet head or his deputy determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for such action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal or other penalization is based;

3. The date, time and place of such action or activity; and

4. The name of the parties involved;

(c) That he may appeal such dismissal or other penalization to the board within ***sixty (60)*** [~~thirty (30)~~] days after receipt of this notification, excluding the day he receives notice.

(8) A classified employee with status who is demoted, suspended or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension or other penalization;

(b) The effective date of the demotion, suspension or other penalization;

(c) The specific reason for such action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion, suspension or other penalization is based;

3. The date, time and place of the action or activity; and

4. The name of the parties involved; and

(d) That he has the right to appeal to the board within ***sixty (60)*** [~~thirty (30)~~] days, excluding the day that he received notification.

(9) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after such dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(10) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and

2. His right to request reconsideration by the commissioner within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the commissioner on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the commissioner in such manner and form as the commissioner may prescribe, and shall be given a reasonable opportunity to be heard thereon by the commissioner. The commissioner shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the commissioner, the employee may appeal to the board.

(11) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant or eligible, and whether his right to inspect or copy such was denied, abridged or impeded. If the board determines that the records related to the employee and that the right to inspect or copy such records has been denied, abridged or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(12) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, handicap, or age between forty (40) and seventy (70). Nothing herein shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, handicap or age in accordance with KRS Chapter 344.

(13) When an eligible's name is removed from a register, the commissioner shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the commissioner or in accordance with the decision of the board.

(14) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of such rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the commissioner pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(15) An evaluation may be appealed to the board if an employee has complied with the review procedure established under KRS 18A.112.

(16) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The department shall be responsible for the distribution of such forms;

(b) The appeal form shall be attached to any notice, or copy of such notice, of dismissal, demotion, suspension, fine, involuntary transfer or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason or cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the department of personnel shall be notified and the board shall schedule a hearing within the time limits prescribed by this section.

(17) All notices from the board shall be in writing. Notices shall be written so as to be understood by non-attorneys.

(18) (a) The appealing employee and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts;

(b) Except as provided herein, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section;

(c) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the cause for which he has been dismissed. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal such denial under the provisions of KRS 18A.100;

(d) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by such investigations and such information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon such information;

(e) Each appeal shall be decided on its merits and the board shall base its decision upon the evidence, facts and information contained in the record.

(19) At the hearing of such appeals, technical rules of evidence shall not apply. Upon its own motion or upon request by a party, the board may require the production by a party, a state employee or a state agency of documents, records and other material relevant to the appeal.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) A board member or an employee of the board shall neither initiate, participate in, nor consider ex parte communications concerning a pending or impending proceeding before the board, except as specifically authorized by administrative regulation of the board in the conduct of a prehearing mediation and settlement procedure formally established by the board under KRS Chapter 13A. Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) (a) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any non-elected member of the board, or any of its hearing officers hired by personal service contract.

(b) Any appeal heard by less than the full board shall be reviewed by the full board before a final order of the board is issued:

1. Prior to a final order of the board, the board shall provide a copy of the findings of fact and recommendations to the parties to the appeal and shall provide them with an opportunity to submit written exceptions and responses to such findings of fact and recommendations. At the request of a party or on its own motion, the board shall permit oral argument before the full board. Such request shall be filed with the board within fifteen (15) days of the recommended order issued by a member, the executive director, or a hearing officer; and

2. The board shall review the record of the evidence presented, the findings of fact and recommendations of the hearing officer, and the written exceptions and responses filed by parties to the appeal.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or handicap, the appointing authority shall, immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify or rescind the disciplinary action;

(d) In all other cases, the board shall rescind the action taken or otherwise grant such other relief to which the employee is entitled.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. Such award shall not include attorney fees attributable to the hearing before the board.

(25) When any employee is dismissed and not ordered reinstated after such appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall, within ninety (90) days after an appeal is filed, issue a final determination for the disposition thereof.

(28) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

SB 147, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 91-644, dated June 28, 1991, which establishes the Division of Marketing and Advertising within the Department of Parks. The division shall be composed of a Group Travel Branch which is transferred from the Commissioner of Parks Office and the Advertising and Promotional Branch which is transferred from the Division of Customer Services.

SB 148, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.220 is amended to read as follows:

(1) There is hereby created a Kentucky Job Training Coordinating Council which for administrative, budget, and support purposes shall be attached to the Cabinet for Workforce Development.

(a) The council shall advise the secretary of the Cabinet for Workforce Development, the Kentucky Occupational and Information Coordinating Committee (KOICC), the Citizens' Commission for Human Resources, the secretary for human resources, the secretary for economic development, the commissioner for employment services, and other officials of the Commonwealth on Job Training Partnership Act policy matters concerning the delivery of skills development services including the assessment of needs, the development of program alternatives, the determination of priorities, the formulation of policy, the allocation of resources, and the evaluation of programs. The council shall be utilized by the Cabinet for Workforce Development and the Cabinet for Human Resources to fulfill federal requirements for citizens' advisory councils associated with programs designed to provide skills development services.

(b) The council shall:

1. Perform the functions assigned to it in the Job Training Partnership Act, 42 U.S.C. Section 1501, et seq., and any amendments thereto, including those contained in the Economic Dislocation and Worker Adjustment Assistance Act, Public Law 100-418, 102 Stat 1524, 1536;

2. Plan, coordinate, monitor, and provide advice to the secretary for workforce development and the Governor regarding the provisions of programs and services set forth in the Job Training Partnership Act as amended; and

3. Execute other employment and training responsibilities not enumerated in Public Law 97-300, as amended, as determined by the Governor or the secretary for workforce development.

(c) The council shall consist of ***twenty-one (21)*** [~~twenty (20)~~] members who shall be appointed by the Governor and who shall serve for a term of three (3) years or until a successor is appointed and qualified except that upon initial appointment, six (6) of the members shall serve for a term of one (1) year, six (6) of the members shall serve for a term of two (2) years, and five (5) of the members shall serve for a term of three (3) years. The secretary of the Cabinet for Workforce Development, the commissioner of the Department for Adult and Technical Education, ***the secretary of the Cabinet for Human Resources or his designee,*** and the secretary of the Cabinet for Economic Development shall serve as ex officio members. In the event of a vacancy, the Governor shall appoint a replacement to serve for the remainder of the unexpired term. Composition of the council shall be in conformity with 29 U.S.C. 1532. From the membership of the council, the Governor shall annually appoint a chairman who shall not be an employee of state government. The secretary of the Cabinet for Workforce Development or his designee shall serve as secretary of the council. The Cabinet for Workforce Development shall provide the council with professional, technical, and clerical staff, and other necessary support services. Funding for the expenses of the council shall be in accordance with 29 U.S.C. 1532(a)(1) and 29 U.S.C. 1602(b)(4). Council members shall not receive any compensation but shall be reimbursed for their expenses in attending meetings and other authorized activities as provided by regulation.

(d) The council shall meet as often as necessary to perform the tasks as outlined in paragraph (b) of this subsection. Meetings shall be called by the chairman or by the secretary of the Cabinet for Workforce Development in consultation with the chairman and notice of the meetings shall be either in writing or by telephone. For the purpose of conducting business, a majority of the membership, excluding vacancies, shall constitute a quorum.

(e) The council shall be empowered to accept gifts and grants, but all such moneys shall be administered by the cabinet, which shall administer these funds through the appropriate trust and agency accounts.

Section 2. The General Assembly confirms the Governor's Executive Order 90-1086 to the extent it is not otherwise confirmed by this Act.

SB 149, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 90-656, dated July 18, 1990, which changes the name of the Division of Expositions within the Kentucky State Fair Board to the Division of Expositions and Admissions and abolishes the Division of Admissions. The duties of the former Division of Admissions are transferred to the renamed Division of Expositions and Admissions.

SB 150, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. Executive Order 90-366, which abolishes the legal services section in the Department of Administrative Services in the Revenue Cabinet and replaces it with the Division of Legal Services in the Department of Administrative Services, is hereby confirmed.

SB 159, AN ACT relating to the Kentucky Bicentennial Commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.388 is amended to read as follows:

(1) There is hereby created in the executive branch of state government a Kentucky Bicentennial Commission. The commission shall consist of thirty (30) members appointed by the Governor. Members shall serve for a term of three (3) years and shall be eligible for reappointment and shall serve until a successor is appointed and qualified.

(2) The commission and the term of members appointed to the commission shall expire ***June 30, 1993*** [~~December 31, 1992~~].

(3) The commission shall be attached to the Office of Governor of the Commonwealth of Kentucky for administrative purposes.

Section 2. KRS 153.390 is amended to read as follows:

The Kentucky Bicentennial Commission shall:

(1) Prepare an overall program to include specific plans for celebrating in 1992 the two hundredth anniversary of Kentucky's admission as the fifteenth state of the United States of America;

(2) Select persons and events to be commemorated. In preparing its plans and programs, the commission shall give consideration to any plans advanced by civic, patriotic, historical, or educational groups, and cooperate with them in all possible ways. The commission may designate special committees with representation from such groups to plan and conduct specific programs;

(3) Encourage the location and presentation of books, documents, manuscripts, letters, relics, and other materials pertaining to the settlement of Kentucky and its attainment of statehood;

(4) Prepare on or before November 1, 1987, and each year thereafter, a complete report of the commission's activities and plans for the celebration in 1992; and

(5) Establish ***the*** [~~a~~] "***Kentucky*** Bicentennial Celebration ***Trust*** Fund" which shall be used by the commission ***for the bicentennial celebration*** to cover ***personnel costs and operating*** expenses incurred ***and to provide grants for bicentennial projects approved by the commission*** [~~in the bicentennial celebration~~]. ***The trust fund shall consist of all funds appropriated to it by the General Assembly of this Commonwealth***

and all funds received from the federal government, or any agency thereof, or from any other source, for the purpose of implementing the provisions of KRS 153.386 to 153.396. After July 15, 1990, the commission shall have the authority to borrow an amount of money equal to, but not exceeding, the amount of money appropriated ***to the trust fund*** for bicentennial projects. The commission may borrow money from the general fund or from a source approved by the secretary of the Finance and Administration Cabinet. Any interest accrued by moneys placed in the ***trust*** [~~bicentennial~~] fund shall remain in the fund for use by the commission. After July 15, 1993, any moneys remaining in the fund shall be transferred to a trust and agency fund, established by the Finance and Administration Cabinet and administered by the Kentucky Heritage Council for the purpose of matching Kentucky Humanities Council grants and other similar grants which promote or explore Kentucky's heritage.

SECTION 3. A NEW SECTION OF KRS CHAPTER 153 IS CREATED TO READ AS FOLLOWS:

Any funds appropriated by the General Assembly and any other revenue otherwise made available to the Kentucky Bicentennial Commission for the bicentennial celebration, to cover personnel costs and operating expenses incurred and to provide grants for bicentennial projects approved by the commission, shall be placed in the Kentucky bicentennial celebration trust fund.

SB 267, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order.[~~, provided, however,~~] in the case of the Personnel Board, and ***if*** [~~where~~] the attached department or administrative body is headed by a constitutionally elected officer, ***the*** [~~such~~] attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of ***the*** [~~such~~] department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    - (a) Secretary of State.
    - (b) Board of Elections.
4. Department of Law.
    - (a) Attorney General.
5. Department of the Treasury.
    - (a) Treasurer.
6. Department of Agriculture.
    - (a) Commissioner of Agriculture.
    - (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.

  9. Railroad Commission.

II. Program cabinets headed by appointed officers:

  1. Justice Cabinet:

    (a) Department of State Police.

    (b) Department of Criminal Justice Training.

    (c) Office of Administration.

    (d) Department of Corrections.

    (e) Parole Board.

    (f) Kentucky State Corrections Commission.

  2. Education and Humanities Cabinet:

    (a) Department of Education.

      (1) State Board for Elementary and Secondary Education.

      (2) Education Professional Standards Board.

    (b) Department for Libraries and Archives.

    (c) Kentucky Educational Television.

    (d) Kentucky Historical Society.

    (e) Kentucky Teachers' Retirement System Board of Trustees.

  3. Natural Resources and Environmental Protection Cabinet:

    (a) Environmental Quality Commission.

    (b) Kentucky Nature Preserves Commission.

    (c) Department for Environmental Protection.

    (d) Department for Natural Resources.

    (e) Department for Surface Mining Reclamation and Enforcement.

    (f) Department of Law.

    (g) Office of Communications and Community Affairs.

  4. Transportation Cabinet:

    (a) Department of Highways.

    (b) Department of Vehicle Regulation.

    (c) Department of Administrative Services.

    (d) Department of Fiscal Management.

    (e) Department of Rural and Municipal Aid.

    (f) Office of Aeronautics.

    (g) Office of General Counsel.

  (h) Office of Public Relations.

  (i) Office of Personnel Management.

  (j) Office of Minority Affairs.

5. Cabinet for Economic Development:

  (a) Department for Existing Business and Industry.

  (b) Department of the Arts.

  (c) Tobacco Research Board.

  (d) Kentucky Development Finance Authority.

  (e) Office of Business and Technology.

  (f) Office of Industrial Development.

6. Public Protection and Regulation Cabinet:

  (a) Public Service Commission.

  (b) Department of Insurance.

  (c) Department of Housing, Buildings and Construction.

  (d) Department of Financial Institutions.

  (e) Department of Mines and Minerals.

  (f) Department of Public Advocacy.

  (g) Department of Alcoholic Beverage Control.

  (h) Kentucky Harness Racing Commission.

  (i) Kentucky State Racing Commission.

  (j) Registry of Election Finance.

  (k) Board of Claims.

  (l) Crime Victims Compensation Board.

  (m) Kentucky Board of Tax Appeals.

  (n) Backside Improvement Commission.

7. Cabinet for Human Resources:

  (a) Department for Health Services.

  (b) Department for Employment Services.

  (c) Department for Social Insurance.

  (d) Department for Social Services.

  (e) Department for Medicaid Services.

  (f) Department for Mental Health and Mental Retardation Services.

  (g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management and Fiscal Affairs.

(c) Office of Historic Properties.

(d) Office of Financial Management and Economic Analysis.

(e) Office of Risk Management.

(f) Department for Administration.

(g) Department of Facilities Management.

(h) Department of Information Systems.

(i) State Property and Buildings Commission.

(j) Kentucky Pollution Abatement Authority.

(k) Kentucky Savings Bond Authority.

(l) Deferred Compensation Systems.

(m) Office of Equal Employment Opportunity Contract Compliance.

(n) Capital Plaza Authority.

(o) County Officials Compensation Board.

(p) Financial Disclosure Review Commission.

(q) Kentucky Employees Retirement Systems.

(r) Commonwealth Credit Union.

(s) State Investment Commission.

(t) Kentucky Housing Corporation.

(u) Governmental Services Center.

(v) Kentucky Local Correctional Facilities Construction Authority.

(w) Kentucky Turnpike Authority.

(x) Historic Properties Advisory Commission.

9. [~~Corrections Cabinet:~~
    - ~~(a) Parole Board.~~
    - ~~(b) Commission on Corrections and Community Services.~~
    - ~~(c) Department of Adult Correctional Institutions.~~
    - ~~(d) Department of Community Services and Facilities.~~
    - ~~(e) Office of Administrative Services.~~
    - ~~(f) Office of Corrections Training.~~
    - ~~(g) Office of General Counsel.~~

~~10.~~] Labor Cabinet:
- (a) Department of Workplace Standards.
- (b) Department of Workers' Claims.
- (c) Kentucky Labor-Management Advisory Council.
- (d) Occupational Safety and Health Standards Board.
- (e) Prevailing Wage Review Board.
- (f) Workers' Compensation Board.
- (g) Kentucky Employees Insurance Association.
- (h) Apprenticeship and Training Council.
- (i) State Labor Relations Board.
- (j) Kentucky Occupational Safety and Health Review Commission.
- (k) Office of Administrative Services.
- (l) Office of Labor Management Relations.
- (m) Office of General Counsel.

10.[~~11.~~] Revenue Cabinet:
- (a) Department of Property Taxation.
- (b) Department of Tax Compliance.
- (c) Department of Administrative Services.

11.[~~12.~~] Tourism Cabinet:
- (a) Department of Travel Development.
- (b) Department of Parks.
- (c) Department of Fish and Wildlife Resources.
- (d) Kentucky Horse Park Commission.
- (e) State Fair Board.
- (f) Office of Administrative Services.

(g) Office of General Counsel.

12.[~~13.~~] Cabinet for Workforce Development:

(a) Department for Adult and Technical Education.

(b) Department of Vocational Rehabilitation.

(c) Department for the Blind.

(d) State Board for Adult and Technical Education.

(e) Governor's Council on Vocational Education.

(f) Governor's Commission on Literacy.

(g) The State Board for Proprietary Education.

(h) The GED Foundation.

(i) The Kentucky Occupational Information Coordinating Committee.

(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 2. KRS 7.111 is amended to read as follows:

(1) The Kentucky State Police, ***Department of*** Corrections [~~Cabinet~~], and the Administrative Office of the Courts shall provide access to their data bases and the centralized criminal history record information system and the data contained therein to other criminal justice agencies, including criminal justice statistical analysis centers, and to the Legislative Research Commission. The right of access granted herein shall not include the right to add to, delete or alter data without permission of the agency holding the data.

(2) Criminal justice agencies and the Legislative Research Commission shall not make public information on an individual person's criminal history record where such record is protected by state or federal law or regulation.

(3) The Legislative Research Commission shall have access to information which does not identify an individual person when determined by the director of the Legislative Research Commission to be necessary for a legislative purpose.

(4) The Legislative Research Commission shall have access to individual persons' criminal history records subject to the following provisions:

(a) Access shall not include information on federal offenses or convictions;

(b) Access shall not include information on out-of-state convictions; and

(c) Requests for the release of the information shall be approved by the Legislative Research Commission by vote at a meeting of the commission.

Section 3. KRS 11.065 is amended to read as follows:

(1) The secretaries of the Justice Cabinet, the Education and Humanities Cabinet, the Natural Resources and Environmental Protection Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the Public Protection and Regulation Cabinet, the Cabinet for Human Resources, the Finance and Administration Cabinet, [~~the Corrections Cabinet,~~] the Revenue Cabinet, the Tourism Cabinet, the Labor Cabinet, the secretary of the Governor's Executive Cabinet, and the Lieutenant Governor shall constitute the Governor's Executive Cabinet. There shall be a vice chairman appointed by the Governor who shall serve in an advisory capacity to the Executive Cabinet. The Governor shall be the chairman and the secretary of the Finance and Administration Cabinet shall be a second vice chairman of the Executive Cabinet. The Governor may designate others to serve as vice chairman.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the Governor. The Executive Cabinet shall be a part of the Office of the Governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the Governor in the administration of the state government and shall assist the Governor in the proper operation of his office and perform [~~such~~] other duties [~~as~~] the Governor may require of them.

(3) The cabinet shall consider [~~such~~] matters involving policies and procedures [~~as~~] the Governor or any member may place before it. The cabinet shall advise and consult with the Governor on all matters affecting the welfare of the state.

Section 4. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice Cabinet.

(2) Education and Humanities Cabinet.

(3) Natural Resources and Environmental Protection Cabinet.

(4) Transportation Cabinet.

(5) Cabinet for Economic Development.

(6) Public Protection and Regulation Cabinet.

(7) Cabinet for Human Resources.

(8) Finance and Administration Cabinet.

(9) [~~Corrections Cabinet.~~

~~(10)~~] Tourism Cabinet.

(10)[~~(11)~~] Revenue Cabinet.

(11)[~~(12)~~] Labor Cabinet.

Section 5. KRS 17.150 is amended to read as follows:

(1) Every sheriff, chief of police, coroner, jailer, prosecuting attorney, probation officer, parole officer; warden or superintendent of a prison, reformatory, correctional school, mental hospital or institution for the retarded; State Police, state fire marshal, Board of Alcoholic Beverage Control; Cabinet for Human Resources; Transportation Cabinet; ***Department of*** Corrections [~~Cabinet~~]; and every other person or criminal justice agency, except the Court of Justice, public or private, dealing with crimes or criminals or with delinquency or delinquents, when requested by the cabinet, shall:

(a) Install and maintain records needed for reporting data required by the cabinet;

(b) Report to the cabinet as and when the cabinet requests all data demanded by it, except that ***the*** [~~such~~] reports concerning a juvenile delinquent shall not reveal his or his parents' identity;

(c) Give the cabinet or its accredited agent access for purpose of inspection; and

(d) Cooperate with the cabinet to the end that its duties may be properly performed.

(2) Intelligence and investigative reports maintained by criminal justice agencies are subject to public inspection ***if*** [~~providing~~] prosecution is completed or a determination not to prosecute has been made. However, portions of ***the*** [~~such~~] records may be withheld from inspection if ***the*** [~~such~~] inspection would disclose:

(a) The name or identity of any confidential informant or information which may lead to the identity of any confidential informant;

(b) Information of a personal nature, the disclosure of which will not tend to advance a wholesome public interest or a legitimate private interest;

(c) Information which may endanger the life or physical safety of law enforcement personnel; or

(d) Information contained in ***the*** [~~such~~] records to be used in a prospective law enforcement action.

(3) When a demand for the inspection of ***the*** [~~such~~] records is refused by the custodian of the record, the burden shall be upon the custodian to justify the refusal of inspection with specificity. Exemptions provided by this section shall not be used by the custodian of the records to delay or impede the exercise of rights granted by this section.

(4) Centralized criminal history records are not subject to public inspection. Centralized history records mean information on individuals collected and compiled by the Justice Cabinet from criminal justice agencies and maintained in a central location consisting of identifiable descriptions and notations of arrests, detentions, indictments, information, or other formal criminal charges and any disposition arising therefrom, including sentencing, correctional supervision and release. ***The*** [~~Such~~] information ***shall be*** [~~is~~] restricted to that recorded as the result of the initiation of criminal proceedings or any proceeding related thereto. Nothing in this subsection shall apply to documents maintained by criminal justice agencies which are the source of information collected by the Justice Cabinet. Criminal justice agencies shall retain ***the*** [~~such~~] documents and no official thereof shall willfully conceal or destroy any record with intent to violate the provisions of this section.

(5) The provisions of KRS Chapter 61 dealing with administrative and judicial remedies for inspection of public records and penalties for violations thereof shall be applicable to this section.

(6) The secretary of justice shall adopt ***the administrative*** [~~such~~] regulations [~~as are~~] necessary to carry out the provisions of the criminal history record information system and to insure the accuracy of ***the*** [~~such~~] information based upon recommendations submitted by the commissioner, Department of State Police.

(7) The Administrative Office of the Courts may, upon suitable agreement between the Chief Justice and the secretary of justice, supply criminal justice information and data to the cabinet. No information, other than that required by KRS 27A.350 to 27A.420 and 27A.440, shall be solicited from a circuit clerk, justice or judge, court, or agency of the Court of Justice unless ***the*** [~~such~~] solicitation or request for information is made pursuant to an agreement which may have been reached between the Chief Justice and the secretary of justice.

Section 6. KRS 17.151 is amended to read as follows:

The Kentucky State Police shall, in cooperation with the Administrative Office of the Courts and the ***Department of*** Corrections [~~Cabinet~~], be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The database shall at a minimum contain the information required in KRS 27A.310 to 27A.440;

(2) The Kentucky State Police shall provide access to the Administrative Office of the Courts and the ***Department of*** Corrections [~~Cabinet~~] to its database; and

(3) The Kentucky State Police and the Corrections Cabinet shall assign the same identification number or other variable to each person whose name appears in the database.

Section 7. KRS 17.152 is amended to read as follows:

All data supplied to the centralized criminal history record information system by the Kentucky State Police, Administrative Office of the Courts, and the ***Department of*** Corrections [~~Cabinet~~] shall be compatible with the system and shall contain both citation and personal identification numbers.

Section 8. KRS 27A.300 is amended to read as follows:

The Administrative Office of the Courts shall, in cooperation with the Kentucky State Police and the ***Department of*** Corrections [~~cabinet~~], be responsible for the recording of those data elements that are needed for development of the centralized criminal history record information system:

(1) The data base shall at a minimum contain the information contained in KRS 27A.310 to 27A.440;

(2) The Administrative Office of the Courts shall provide access to the Kentucky State Police and the ***Department of*** Corrections [~~Cabinet~~] to its data base; and

(3) The Administrative Office of the Courts shall, where ***the*** [~~such~~] number is known, assign the same identification number or other variable to each person whose name appears in the data base.

Section 9. KRS 45A.720 is amended to read as follows:

Agreements with an individual to provide the services of executioner for the ***Department of*** Corrections [~~Cabinet~~] shall not be subject to the provisions of KRS 45A.690 to 45A.725. The identity of an individual performing the services of executioner shall remain confidential and shall not be considered as public record for the purposes of KRS 61.870 to 61.884.

Section 10. KRS 45A.470 is amended to read as follows:

(1) All governmental bodies and political subdivisions of this state shall, when purchasing commodities or services, give first preference to the products made by the ***Department of*** Corrections [~~Cabinet~~], Division of Prison Industries, as required by KRS 197.210. Second preference shall be given to the Kentucky industries for the blind as described in KRS 163.450 to 163.470 and agencies of the severely handicapped as described in KRS 45A.465.

(2) The Finance and Administration Cabinet shall make a list of commodities and services provided by these agencies and organizations available to all governmental bodies and political subdivisions. The list shall identify in detail the commodity or service the agency or organization may supply and the price.

(3) The Finance and Administration Cabinet shall annually determine the current price range for the commodities and services offered from its experience in purchasing these commodities or services on the open market. [~~In no case shall~~] The prices quoted by these agencies or organizations ***shall not*** exceed the current price range.

(4) The Department for the Blind within the Education and the Humanities Cabinet and qualified agencies for the severely handicapped shall annually cause to be made available to the Finance and Administration Cabinet, lists of the products or services available.

(5) ***If*** [~~In the event~~] two (2) or more of the agencies or qualified nonprofit organizations wish to supply identical commodities or services, the Finance and Administration Cabinet shall conduct negotiations with the parties to determine which shall be awarded the contract. The decision of the Finance and Administration Cabinet shall be based upon quality of the commodity or service and the ability of the respective agencies to supply the commodity or service within the requested delivery time.

Section 11. KRS 56.491 is amended to read as follows:

(1) No state agency shall have power or authority to make plans and specifications, advertise for bids, let contracts or incur any financing commitments, either in the way of a charge against public funds or in the way of negotiations for issuance of revenue bonds, for any capital construction projects involving the improvement of lands or the construction, alteration, reconstruction, or major repair of any building or other structure, or sewage disposal or water supply system, requiring the expenditure of more than one hundred thousand dollars ($100,000) without first securing the approval of the Finance and Administration Cabinet.

(2) The state agency seeking ***the*** [~~such~~] approval shall submit to the Finance and Administration Cabinet a general description of the proposed project, with ***the*** [~~such~~] detailed information [~~as~~] the cabinet may require. Review of construction plans for conformance with the Uniform State Building Code shall be conducted by the Department of Housing, Buildings and Construction. The Finance and Administration Cabinet shall not approve any [~~such~~] project requiring its approval in any instance ***if*** [~~where~~] it finds that***:*** the project is not needed***;***[~~, or that~~] the proposed method of financing is not sound***;***[~~, or in cases where~~] the project will exceed the amount of the funds available therefor***;***[~~, or~~] the work contemplated will be insufficient to accomplish the purpose of the project***;***[~~,~~] or [~~that~~] after providing for the ordinary recurring expenses of government and debt service and for payments under existing allotments for extraordinary expenses and capital outlay, cash will not be available in the State Treasury to promptly pay for the work during the biennium, or except as provided in subsection (5) of this section, that the work is to be done by employees of the agency.

(3) The finding of the Finance and Administration Cabinet shall be final, except in cases where the issuance and sale of bonds is proposed, in which cases the cabinet shall submit its findings to the commission for final approval, modification, or disapproval.

(4) Any capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will exceed one hundred thousand dollars ($100,000), shall be contracted for on a competitive bid basis, and the execution of ***the*** [~~such~~] contracts ***shall*** [~~must~~] be approved and authorized by the cabinet. When a capital construction project has been approved as provided in this section, in whole or in part, the cabinet shall prepare the plans and specifications, advertise for bids, award the contracts, supervise the construction, and handle the financial negotiations on behalf of the requesting state agency; or with prior written approval, the cabinet may authorize a state agency to do so with delegated authority of the cabinet.

(5) A capital construction project, the total cost of completion of which the Finance and Administration Cabinet determines will not exceed one hundred thousand dollars ($100,000), may be performed by the employees of the requesting agency or by individuals hired specifically for the project who shall be exempt from the requirements of KRS Chapter 18A***, if***[~~; provided, however, that~~] the project ***is*** [~~must be~~] approved and authorized by the cabinet. Necessary materials and supplies shall be procured in accordance with the standard purchasing procedures and policies of the cabinet as defined in KRS Chapter 45A.

(6) This section ***shall*** [~~does~~] not apply to capital outlays to the Department of Highways for roads and bridges.

(7) This section shall not apply to capital outlays by the ***Justice*** [~~Corrections~~] Cabinet for repair, maintenance, improvement, or expansion of present correctional facilities on which projects inmates are used. Any capital construction project to be performed by the ***Justice*** [~~Corrections~~] Cabinet shall be approved and authorized by the Finance and Administration Cabinet.

Section 12. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement***,*** [~~(~~]including the positions of probation and parole officer, and Commonwealth detective[~~)~~], active fire suppression or prevention, or other positions, including***,*** but not limited to***,*** pilots of the Transportation Cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the ***Department of*** Corrections [~~Cabinet~~] in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the board***,*** in the manner prescribed by the board***,*** the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. The rate ***shall*** [~~will~~] be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) ***If*** [~~In the event~~] the employer participated in the system prior to electing hazardous duty coverage, ***the*** [~~then said~~] employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. ***If*** [~~Should~~] the employer ***elects*** [~~elect~~] not to make the additional payment, then the employee may make the lump-sum payment in his own behalf or may pay in his own behalf in increments by payroll deduction each pay period prior to his retirement. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 13. KRS 61.900 is amended to read as follows:

As used in KRS 61.902 to 61.930:

(1) "Commission" means a commission issued to an individual by the secretary of justice, entitling ***the*** [~~such~~] individual to perform special law enforcement duties on public property;

(2) "Council" means the Kentucky Law Enforcement Council;

(3) "Cabinet" means the Justice Cabinet;

(4) "Public property" means property currently owned or used by any organizational unit or agency of state, county, city, metropolitan government, or a combination of these. The term shall include property currently owned or used by public airport authorities;

(5) "Secretary" means the secretary of the Justice Cabinet;

(6) "Special law enforcement officer":

(a) Means one whose duties include the protection of specific public property from intrusion, entry, larceny, vandalism, abuse, intermeddling, or trespass;

(b) Means one whose duties include the prevention, observation, or detection of, or apprehension for, any unlawful activity on specific public property;

(c) Means one whose special duties include the control of the operation, speed and parking of motor vehicles, bicycles and other vehicles, and the movement of pedestrian traffic on specific public property;

(d) Means one whose duties include the answering of any intrusion alarm on specific public property;

(e) Shall include the Capitol police, the Capital Plaza police, public school district security officers, public airport authority security officers, and the officers of the other public security forces established for the purpose of protecting specific public property; and

(f) Shall not include members of a lawfully organized police unit or police force of state, county, city, or metropolitan government, or a combination of these, who are responsible for the detection of crime and the enforcement of the general criminal law enforcement of the state; it shall not include any of the following officials or officers:

1. Sheriffs, sworn deputy sheriffs, city marshals, constables, sworn deputy constables, and coroners;

2. Auxiliary and reserve police appointed under KRS 95.160, 95.445, or 95.740;

3. State park rangers and conservation officers;

4. Officers of the Transportation Cabinet and Division of Water Patrol responsible for law enforcement;

5. Officers of the ***Department of*** Corrections [~~Cabinet~~] responsible for law enforcement;

6. Fire marshals and deputy fire marshals;

7. Other officers not mentioned above who are employed directly by state government and are responsible for law enforcement;

8. Federal peace officers;

9. Those campus security officers who are commissioned under KRS 164.950;

10. Private security guards, private security patrolmen, and investigators licensed pursuant to state statute; and

11. Railroad policemen covered by KRS 277.270 and 277.280; and

(7) "Sworn public peace officer" means one (1) who derives plenary or special law enforcement powers from, and is a full-time employee of, the federal government, the Commonwealth, or any political subdivision, agency, department, branch, or service of either, or of any municipality.

Section 14. KRS 67A.028 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky determines as a legislative finding of fact that the needs of large urban areas in the field of detention, institutionalization, and rehabilitation of offenders and public wards are more specialized, acute, and distinct than the needs of smaller communities, and require programs peculiarly suited to the needs of large, urban areas, and that in order to protect, enhance, and maintain the public safety, health, and general welfare, it is necessary that legislative bodies of counties containing an urban-county government, where the constitutional offices of sheriff and jailer have been consolidated, be empowered to create correctional services divisions which shall be divisions of urban-county government, and which will be vested with the duty, responsibility, and power to maintain and operate all of the correctional, detention, and rehabilitative facilities of ***these*** [~~such~~] counties in a professional and competent manner.

(2) A correctional services division may be established by ordinance of the legislative body of any county containing an urban-county government in which the constitutional offices of sheriff and jailer have been consolidated as provided in Section 105 of the Constitution of the Commonwealth of Kentucky. A division shall, upon its creation, have all of the duties, responsibilities, and liabilities of the sheriff and jailer as set forth and contained in the Kentucky Revised Statutes, with reference to the operation and maintenance of the county jail and all county correctional facilities. The sheriff and jailer shall, notwithstanding any other statutory provision to the contrary, have no further responsibility, duty, and liability for the performance of statutory duties on a personal basis. The sheriff shall be required to annually inspect all county correctional facilities and render a written report to the urban-county government legislative body and to the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] regarding the general operation of all correctional facilities. The report shall furnish, in detail, information regarding the number of prisoners, detainees, and public wards who are inmates of each correctional facility; the offenses or causes for their incarceration***,***[~~;~~] the length of stay; and further reports regarding rehabilitative programs instituted and being carried on by the division as may be required for a complete accounting and report.

(3) The correctional services division shall, subject to the approval and authorization of the legislative body of the urban-county government, generally administer, operate, and maintain all county correctional facilities, and formulate and implement necessary correctional and rehabilitative programs. All employees of the division, including the director, shall be members of the classified civil service system established pursuant to KRS 67A.210 et seq.

Section 15. KRS 100.361 is amended to read as follows:

(1) Nothing in this chapter shall apply or affect zoning regulations adopted pursuant to KRS Chapter 183.

(2) Nothing in this chapter shall impair the sovereignty of the Commonwealth of Kentucky over its political subdivisions. Any proposal affecting land use by any department, commission, board, authority, agency, or instrumentality of state government shall not require approval of the local planning unit. However, adequate information concerning ***the*** [~~such~~] proposals shall be furnished to the planning commission by the department,

commission, board, authority, agency, or instrumentality of state government. If the state proposes to acquire, construct, alter, or lease any land or structure to be used as a penal institution or correctional facility, and the proposed use is inconsistent with or contrary to local planning regulations or the comprehensive plan for the area, [~~then~~] the secretary of the ***Justice*** [~~corrections~~] Cabinet, or his designee, shall notify, in accordance with KRS 424.180, the planning commission, the local governing body, who has jurisdiction over the area involved, and the general public of the state's proposals for the area, and he shall hold a public hearing on the proposals within the area at least ninety (90) days prior to commencing ***the*** [~~such~~] acquisition, construction, alteration, or leasing. A final report on the public hearing shall be submitted to the Governor and members of the General Assembly within twenty-five (25) days of the public hearing, and prior to commencing any construction, alteration, acquisition, or leasing of such property or facilities.

Section 16. KRS 189.910 is amended to read as follows:

(1) As used in KRS 189.920 to 189.950, "emergency vehicle" means any vehicle used for emergency purposes by a fire department; any vehicle used for emergency purposes by the State Police, a public police department, ***Department of*** Corrections [~~Cabinet~~], [~~vehicles~~] or sheriff's office; any vehicle used for emergency purposes by a rescue squad; any publicly owned vehicle used for emergency purposes by a civil defense agency; ambulances; any vehicle commandeered by a police officer; or any motor vehicle used by a paid or volunteer fireman or paid or volunteer ambulance personnel while responding to an emergency or to a location where an emergency vehicle is on emergency call.

(2) As used in KRS 189.920 to 189.950, "public safety vehicle" means public utility repair vehicle; wreckers; state, county, or municipal service vehicles and equipment; highway equipment which performs work that requires stopping and standing or moving at slow speeds within the traveled portions of highways; and vehicles which are escorting wide-load or slow-moving trailers or trucks.

Section 17. KRS 189.920 is amended to read as follows:

(1) All fire department, rescue squad, or publicly owned civil defense agency emergency vehicles and all ambulances shall be equipped with one (1) or more flashing, rotating, or oscillating red lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of ***the*** [~~such~~] vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(2) All state, county, or municipal police vehicles and all sheriffs' vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of ***the*** [~~such~~] vehicle, and a siren, whistle, or bell, capable of emitting a sound audible under normal conditions from a distance of not less than five hundred (500) feet. This equipment shall be in addition to any other equipment required by the motor vehicle laws.

(3) By ordinance, the governing body of any city or county may direct that the police or sheriffs' vehicles in that jurisdiction be equipped with a combination of red and blue flashing, rotating, or oscillating lights.

(4) All public safety vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating yellow lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of ***the*** [~~such~~] vehicle. Yellow flashing, rotating, or oscillating lights may also be used by vehicles operated by mail carriers while on duty, funeral escort vehicles, and church buses.

(5) All ***Department of*** Corrections [~~Cabinet~~] vehicles used as emergency vehicles shall be equipped with one (1) or more flashing, rotating, or oscillating blue lights, visible under normal atmospheric conditions from a distance of five hundred (500) feet to the front of ***the*** [~~such~~] vehicle. ***The Department of*** [~~Such~~] Corrections [~~Cabinet~~] vehicles shall not be equipped with or use a siren, whistle, or bell. The equipment prescribed by this subsection shall be in addition to any other equipment required by motor vehicle laws.

(6) Red flashing lights may be used by school buses.

(7) No emergency vehicle, public safety vehicle, or any other vehicle covered by KRS 189.910 to 189.950 shall use any light of any other color than those specified by KRS 189.910 to 189.950. Sirens, whistles, and bells may not be used by vehicles other than those specified by KRS 189.910 to 189.950, except that any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal.

Section 18. KRS 196.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means secretary of the ***Justice*** [~~Corrections~~] Cabinet;

(2) ***"Commissioner" means commissioner of the Department of Corrections.***

(3) "***Department*** [~~Cabinet~~]" means the ***Department of*** Corrections [~~Cabinet~~];

(4)[~~(3)~~] "Institution" means any institution under the control of the ***Department of*** Corrections [~~Cabinet~~].

(5) "Cabinet" means the Justice Cabinet.

Section 19. KRS 196.030 is amended to read as follows:

(1) The ***department*** [~~cabinet~~] shall, unless otherwise provided by law, exercise all functions of the state in relation to:

(a) Management of penal, reform, and correctional institutions;

(b) Supervision of probation and parole;

(c) The giving of assistance to other departments, agencies, and institutions of the state and federal government when requested by performing services in conformity with this section;

(d) Acting as the agent of the federal government in matters of mutual concern, and in the administration of any federal funds granted to the state to aid in the performance of any function of this ***department*** [~~cabinet~~];

(e) Administration and enforcement of the provisions of KRS Chapter 441 relating to the development and enforcement of jail standards, training of jailers and jail personnel, and jail planning and construction.

(2) Notwithstanding other provisions to the contrary, the ***Department of*** Corrections [~~Cabinet~~] may contract with a county fiscal court or local or regional correctional authority to house misdemeanants and persons awaiting trial or sentencing.

(3) The provisions of this section shall not apply to any institution, home, or agency which does not receive aid from the state, [~~or~~] a county, or municipality.

Section 20. KRS 196.037 is amended to read as follows:

(1) All personnel of the ***department*** [~~cabinet~~], while acting for the ***department*** [~~cabinet~~] in any capacity entailing the maintenance of custody over any prisoners, shall have all the authority and powers of peace officers.

(2) All ***department*** [~~cabinet~~] personnel who are officially requested by a law enforcement agency in a county of Kentucky or by the Kentucky State Police to assist in the apprehension of a prisoner who has escaped from the legal or physical custody of the ***Department of*** Corrections [~~Cabinet~~] or a detention facility of the ***Department of*** Corrections [~~Cabinet~~] shall possess, while responding to and for the duration of the matter for which the request was made, the same powers of arrest as peace officers.

Section 21. KRS 196.070 is amended to read as follows:

The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] shall:

(1) Supervise and administer the Kentucky State Reformatory, the Kentucky Correctional Institution for Women, the Kentucky State Penitentiary, Northpoint Training Center, the Luther Luckett Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, the Roederer Correctional Complex, and any minimum security correctional institutions established and operated by the ***department*** [~~cabinet~~], or any divisions of those institutions, and the prison industry program within those institutions.

(2) Supervise the employment of prisoners who have not been paroled or conditionally released, either within or without the walls or enclosures of these institutions.

(3) Have the authority to transfer, with the approval of the [~~secretary and the~~] secretary of the Finance and Administration Cabinet, appropriated funds from the budget of one (1) penal institution to another.

(4) Determine minimum, maximum, and conditional release dates of prisoners in accordance with KRS 197.045.

(5) Authorize the transfer of prisoners between institutions.

Section 22. KRS 196.075 is amended to read as follows:

The ***Department of*** Corrections [~~Cabinet~~], under the direction of the ***commissioner*** [~~secretary~~], shall exercise the functions vested in the ***department*** [~~cabinet~~] relating to probation and parole. The ***commissioner*** [~~secretary~~] shall make ***administrative*** [~~rules and~~] regulations governing parolees and shall have the same powers of arrest as probation and parole officers.

Section 23. KRS 196.076 is amended to read as follows:

The ***department*** [~~cabinet~~] shall establish a probation and parole officer salary improvement program consisting of the following elements:

(1) Probation and parole officer I with less than five (5) years of service shall receive no salary improvement.

(2) Probation and parole officer II with five (5) but less than ten (10) years of service shall receive a salary improvement of five percent (5%).

(3) Probation and parole officer III with ten (10) or more years of service shall receive a salary improvement of ten percent (10%).

(4) Salary improvements under this section shall be in addition to all other increments or other salary increases authorized by law but shall only be paid if the probation and parole officer has attained a favorable work-performance rating for four (4) of the previous five (5) years.

(5) The service requirement shall be satisfied only by service as a Kentucky probation and parole officer.

(6) At the time of implementation, officers who already meet the performance rating and service time requirements shall be awarded the respective position title and salary improvement. Officers who have not yet met those requirements shall be awarded the position title and salary improvements only upon meeting the requirements.

(7) Probation and parole seniors, coordinators, and supervisors shall be included in the appropriate progression series level for salary improvement based upon the work performance rating and respective service time requirement attained. However, the progression series titles shall not apply to probation and parole seniors, coordinators and supervisors.

(8) The ***department*** [~~cabinet~~] shall make the administrative regulations necessary for the administration of this section.

Section 24. KRS 196.081 is amended to read as follows:

(1) To facilitate the need for comprehensive planning for the ***Department of*** Corrections [~~Cabinet~~] and for related matters the Kentucky State Corrections Commission is hereby created. The commission shall consist of twelve (12) members as follows:

(a) The Attorney General;

(b) The secretary of the Justice Cabinet;

(c) The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~];

(d) The chairman of the Parole Board;

(e) The secretary of the Cabinet for Human Resources;

(f) A county jailer chosen by the Governor;

(g) A Circuit Judge chosen by the Governor from a list of three (3) submitted by the Chief Justice;

(h) Two (2) criminal justice professionals who are familiar with correctional research, theory, and program implementation, appointed by the Governor;

(i) A representative from a law enforcement agency, appointed by the Governor;

(j) A Commonwealth's attorney chosen by the Governor from a list of three (3) submitted by the Prosecutors Advisory Council; and

(k) The state Public Advocate.

(2) The terms of those representatives appointed by the Governor shall be three (3) years. These members shall serve at the pleasure of the Governor and shall be eligible for reappointment. If there is a vacancy, the Governor shall immediately make an appointment effective for the unexpired term.

(3) The Governor shall appoint a chairman of the corrections commission from among its members. The members of the commission shall elect from among its members a vice chairman who shall preside and exercise the functions of chairman during absence or disability of the chairman.

(4) Regular meetings of the commission shall be held at least once every three (3) months at a place, day, and hour determined by the commission. Special meetings shall be held when needed as determined by the chairman. If six (6) or more members of the commission request in writing that the chairman call a special meeting, the chairman shall call a special meeting.

(5) Members of the commission shall receive reimbursement for necessary expenses for attendance at official commission meetings or public hearings. The commission shall be staffed by a director and other staff.

(6) The commission shall:

(a) Develop and approve the methodology to be used by the commission to project and maintain current six (6) year projections of prison populations;

(b) Develop a six (6) year plan for ***Department of*** Corrections [~~Cabinet~~] operations, including both construction and programmatic elements; this plan shall be developed with information supplied by the agencies, departments, and groups represented on the commission, and other public and private agencies and citizens with a vested interest in corrections;

(c) Monitor, modify, and update the six (6) year plan as necessary but not less frequently than semiannually and submit the current plan to the Legislative Research Commission not later than six (6) months prior to the commencement of every regular session of the General Assembly;

(d) Assist the ***Department of*** Corrections [~~Cabinet~~] in preparing and submitting legislative proposals, including budget requests necessary to implement and update the six (6) year plan;

(e) Review and make recommendations to the General Assembly concerning legislative proposals, including ***Department of*** Corrections [~~Cabinet~~] budget proposals, to insure consistency with the six (6) year plan;

(f) Develop, in cooperation with the Department of Public Advocacy, the Administrative Office of the Courts, the Prosecutors Advisory Council, and other interested parties, a schedule of punitive and rehabilitative alternatives to imprisonment for dissemination to judges, prosecutors, and defense attorneys. The schedule shall include, but shall not be limited to, rehabilitation treatment and counseling, community work and service, and drug and alcohol testing;

(g) Receive regular reports from the ***Department of*** Corrections [~~Cabinet~~], on a schedule established by the commission, as to the ***department's*** [~~cabinet's~~] progress in complying with the six (6) year plan;

(h) Review and make recommendations to the ***department*** [~~cabinet~~] on any significant change in programs, policies, procedures, staffing, classification, or other component of corrections operations which departs from the six (6) year plan;

(i) Assist the Legislative Research Commission in the preparation of corrections impact statements for proposed legislation;

(j) Make recommendations to the Governor and the General Assembly concerning legislation affecting corrections, including, but not limited to, legislation relating to sentencing, probation, and parole; and

(k) In cooperation with the Administrative Office of the Courts, the Prosecutors Advisory Council, the Department of Social Services of the Cabinet for Human Resources, and the Kentucky Bar Association, conduct educational seminars for judges, attorneys, and probation officers, to disseminate information concerning the availability and appropriate utilization of community service, rehabilitation, and other types of alternative sentences and conditions of probation.

(7) The six (6) year plan shall consist of at least the following elements:

(a) The location, capacity, classification, and staffing of each penal institution and program administered by the ***Department of*** Corrections [~~Cabinet~~];

(b) The location, capacity, classification, staffing, and anticipated cost and time of construction of each new facility to be constructed or each facility expansion to be constructed during the six (6) year plan period;

(c) The administrative structure of the ***Department of*** Corrections [~~Cabinet~~];

(d) Prison population projections for the six (6) year plan period;

(e) Education, rehabilitation, and prison industries programs administered by the ***Department of*** Corrections [~~Cabinet~~];

(f) The inmate labor program administered by the ***department*** [~~cabinet~~]; and

(g) Contingency plans to deal with unexpected increases in prison population.

(8) The six (6) year plan shall be submitted to the General Assembly and approved by the General Assembly with the additions, deletions, or modifications the General Assembly shall deem advisable. Upon adoption by the General Assembly, all new facilities, and renovations and expansions of existing facilities, shall be in accordance with the plan, except in the case of an emergency declared by the Governor after the adoption of the plan. All other material changes in the plan shall be presented to the Corrections Commission for review and recommendation prior to implementation. While a change may be implemented without commission approval, the Corrections Commission shall advise the Legislative Research Commission of any material change request that is not favorably recommended by the commission.

Section 25. KRS 196.097 is amended to read as follows:

The ***Department of*** Corrections [~~Cabinet~~] shall update their own data base within thirty (30) days of receipt of information. The update shall include information from the:

(1) Offender level;

(2) Institutional level; and

(3) Informational and evaluational level.

Section 26. KRS 196.110 is amended to read as follows:

The ***department*** [~~cabinet~~] shall:

(1) Study the sources and causes of crime, delinquency, and dependency and suggest and put into effect remedial measures in the prevention and ultimate eradication of antisocial acts and conditions; and

(2) Encourage the employment of the inmates of the institutions under its control in such ways as will contribute to their physical, mental, and moral improvement and to meeting the cost of their maintenance. The ***department*** [~~cabinet~~] may utilize the product of inmate labor in the upkeep or maintenance of the respective institutions or for other departments of the state government, and may transfer from one ***(1)*** institution to another, or otherwise dispose of, any surplus products produced.

Section 27. KRS 196.120 is amended to read as follows:

(1) The ***Department of*** Corrections [~~Cabinet~~] may lease or purchase farm lands, improved or unimproved, for the employment of the inmates of the institutions under its supervision. The ***Department of*** Corrections [~~Cabinet~~] may prescribe ***administrative*** [~~necessary rules and~~] regulations for the support and maintenance of prisoners while at work on the farm, and may construct all necessary improvements on any lands purchased under this section.

(2) Before land is leased, the lease ***shall*** [~~must~~] first be approved by the Governor and the lease shall be limited to the term of the Governor approving it. The contract price of the lease shall be certified to the Finance and Administration Cabinet and paid as other claims against the state.

Section 28. KRS 196.130 is amended to read as follows:

The University of Kentucky shall, at the request of the ***Department of*** Corrections [~~Cabinet~~], examine and report on any land which the ***Department of*** Corrections [~~Cabinet~~] wishes to investigate with a view to purchase or lease, so that the ***Department of*** Corrections [~~Cabinet~~] may be fully advised as to the quality and character of the soil, water supply, sanitation, and other agricultural and engineering problems. The university shall be entitled to receive its necessary expenses in connection with the investigation.

Section 29. KRS 196.135 is amended to read as follows:

If the state proposes to acquire, construct, alter, or lease any land or structure to be used as a penal institution or correctional facility, and the proposed use is contrary to or inconsistent with local planning regulations or local comprehensive plans, [~~then~~] the ***commissioner*** [~~secretary~~] shall comply with the requirements of KRS 100.361(2). Failure to comply shall cause any transaction respecting ***the*** [~~such~~] acquisition, construction, alteration, or lease to become null and void.

Section 30. KRS 196.140 is amended to read as follows:

When it is necessary for the ***department*** [~~cabinet~~] to own real estate for its use and it is unable to acquire ***the*** [~~such~~] property by purchase, the ***department*** [~~cabinet~~] may condemn the real estate for its use and purposes in the manner set forth in the Eminent Domain Act of Kentucky.

Section 31. KRS 196.150 is amended to read as follows:

The ***Department of*** Corrections [~~Cabinet~~] may accept money from the federal government, or any of its agencies, under any grant agreement entered into by the State of Kentucky or the ***Department of*** Corrections [~~Cabinet~~]. ***The*** [~~Such~~] money may be expended for capital outlay in accordance with the provisions of KRS 56.440 to 56.550.

Section 32. KRS 196.160 is amended to read as follows:

(1) The ***commissioner*** [~~secretary~~] shall appoint a warden, a receiver, and other necessary employees for each of the state penal and correctional institutions. The compensation of these officers and employees may include maintenance.

(2) The ***department*** [~~cabinets~~] shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by its employees in those positions in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

Section 33. KRS 196.171 is amended to read as follows:

(1) The ***Department of*** Corrections [~~Cabinet~~] shall develop an educational course on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Human Resources of not more than four (4) hours for the instruction of corrections personnel who have day to day contact with incarcerated persons and personnel who may be expected to respond to crisis situations. The literature and training curriculum shall include information of known modes of transmission and methods of controlling and preventing these diseases with an emphasis on appropriate behavior and attitude change. The training may be part of any continuing education program.

(2) All persons referred to in subsection (1) of this section shall successfully complete the training required. Any person holding the position referred to in subsection (1) of this section shall not fill that position for more than one (1) year without successful completion of the required training. If the persons do not successfully complete the required training within the time specified, he shall be suspended from further service until he successfully completes the required training.

Section 34. KRS 196.180 is amended to read as follows:

(1) The warden shall have the general management of the institution, and the inmates thereof, subject to the ***administrative*** [~~rules and~~] regulations of the ***Department of*** Corrections [~~Cabinet~~], and he shall devote his entire time to the duties of his office.

(2) The warden of each institution shall be held responsible for the management of his institution and shall be subject to removal at any time by the ***commissioner*** [~~secretary~~].

Section 35. KRS 196.190 is amended to read as follows:

The receiver shall receive all goods and supplies purchased for the institution, take charge of them, see that they correspond with the bills accompanying them, in character, quality, and quantity, and distribute them to each department of the institution as the warden directs by written order. The receiver shall open an account with each department in a book for that purpose, charging therein the cost price for all goods so received and distributed. The books shall be open at all times for inspection by the warden, the ***commissioner, the*** secretary, the Governor, a committee of the Legislature, or any person appointed by either for examination.

Section 36. KRS 196.210 is amended to read as follows:

(1) No advisory member of the board shall recommend or urge that any person shall be employed in any institution.

(2) All officers and employees of the ***Department of*** Corrections [~~Cabinet~~] shall be selected for merit and fitness only and, with the exception of persons employed for special or temporary service, shall give all of their time to the service of the ***Department of*** Corrections [~~Cabinet~~].

Section 37. KRS 196.230 is amended to read as follows:

(1) No officer in the ***department*** [~~cabinet~~] shall sell anything to any institution under the control of the ***Department of*** Corrections [~~Cabinet~~], or make any contract, in which he is interested, with ***the*** [~~such~~] institution.

(2) Officers and employees shall not be entitled to receive any compensation for their services other than the salary paid them by the state.

(3) No officer or employee of the ***Department of*** Corrections [~~Cabinet~~] or any of the institutions under its control shall accept any fee or gift for any purpose from any person who has at the time or has had a contract to do anything connected with the ***Department of*** Corrections [~~Cabinet~~] or an institution.

Section 38. KRS 196.245 is amended to read as follows:

The ***commissioner may*** [~~secretary is authorized to~~] permit or prohibit the practice of smoking by the inmates of the penal institutions, regardless of the age of the inmates, ***when*** [~~whenever~~] he believes ***the*** [~~such~~] regulation will enhance or improve the discipline of the inmates of these institutions.

Section 39. KRS 196.270 is amended to read as follows:

There shall be established and maintained within the ***Department of*** Corrections [~~Cabinet~~] a centralized canteen operation which shall be incorporated and self-supporting. Each institution administered by the ***department*** [~~cabinet~~] shall participate in the canteen operation. The directors of the canteen shall be as follows: the ***commissioner*** [~~secretary~~], the ***deputy*** commissioner of the Department of Adult Institutions, the executive director of the Office of Administrative Services, and the wardens of all state correctional institutions. All profits from the canteen, including the sale of handicrafts made by inmates to the general public, shall be used exclusively for the benefit of the inmates of the ***department*** [~~cabinet~~]. The directors of the canteen ***may*** [~~are authorized to~~] consolidate the assets of the existing canteens for this purpose and to employ ***the*** [~~such~~] staff and inmates [~~as are~~] necessary to efficiently manage the canteen.

Section 40. KRS 196.620 is amended to read as follows:

(1) The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] is hereby authorized and directed to do all things necessary or incidental to the carrying out of the compact in every particular and he may in his discretion delegate this authority.

(2) KRS 196.610 may be cited as the Interstate Corrections Compact.

Section 41. KRS 196.093 is amended to read as follows:

The ***Department of*** Corrections [~~Cabinet~~] shall, in cooperation with the Kentucky State Police and the Administrative Office of the Courts, be responsible for the recording of those data elements that are needed for the development of the centralized criminal history record information system:

(1) The data base shall at a minimum contain the information required in KRS 27A.310 to 27A.440;

(2) The ***Department of*** Corrections [~~Cabinet~~] shall provide access to the Kentucky State Police and the Administrative Office of the Courts to its data base; and

(3) The ***Department of*** Corrections [~~Cabinet~~] shall assign the same identification number or other variable to each person whose name appears in the data base.

Section 42. KRS 197.045 is amended to read as follows:

(1) Any person convicted and sentenced to a state penal institution may receive a credit on his sentence of not exceeding ten (10) days for each month served, except as otherwise provided in this section, to be determined by the ***department*** [~~cabinet~~] from the conduct of the prisoner. In addition, the ***department*** [~~cabinet~~] shall provide an educational good time credit of sixty (60) days to any prisoner ***who*** [~~that~~] successfully completes a graduate equivalency diploma, a two (2) or four (4) year college degree, or who passes state certification for any vocational program provided by the ***department*** [~~cabinet~~]; prisoners may earn additional credit for each program completed. The ***department*** [~~cabinet~~] may forfeit any good time previously earned by the prisoner, or deny the prisoner the right to earn good time in any amount, if during the term of imprisonment, a prisoner commits any offense or violates the rules of the institution.

(2) When two (2) or more consecutive sentences are to be served, the several sentences shall be merged and served in the aggregate for the purposes of the good time credit computation or in computing dates of expiration of sentence.

(3) An inmate may, at the discretion of the ***commissioner*** [~~secretary~~], be allowed a deduction from a sentence not to exceed five (5) days per month for performing exceptionally meritorious service or performing duties of outstanding importance in connection with institutional operations and programs. The allowance shall be an addition to commutation of time for good conduct and under the same terms and conditions and without regard to length of sentence.

Section 43. KRS 197.010 is amended to read as follows:

Definitions as used in this chapter, unless the context otherwise requires:

(1) "State agency" means any department, board, commission, or agency of the state government;

(2) "Cabinet" means the ***Justice*** [~~Corrections~~] Cabinet;

(3) ***"Department" means Department of Corrections;***

(4) "Penitentiaries" includes the state penal institutions for males at Eddyville and LaGrange, the Luther Luckett Correctional Complex, the Kentucky Correctional Institute for Women, the Northpoint Training Center, the Roederer Correctional Complex, the Eastern Kentucky Correctional Complex, the Western Kentucky Correctional Complex, Frankfort Career Development Center, Blackburn Correctional Complex, and Bell County Forestry Camp, together with the branches thereof and any other similar institutions hereafter established.

(5)[~~(4)~~] "Classification" means the systematic assignment of a prisoner to a custody level, program, and penitentiary.

Section 44. KRS 197.020 is amended to read as follows:

The ***Department of*** Corrections [~~Cabinet~~] shall:

(1) Formulate and prescribe all necessary regulations and bylaws for the government and discipline of the penitentiary, the rules for the government and official conduct of all officials connected with the penitentiary and for the government of the prisoners in their deportment and conduct;

(2) Prescribe the character of food and diet of the prisoners and rules for the preservation of the health of the prisoners, the daily cleansing of the penitentiary, the cleanliness of the persons of the prisoners, the general sanitary government of the penitentiary and prisoners, the character of the labor, and quantity of food and clothing, and the length of time during which the prisoners shall be employed daily; and

(3) Cause the rules and regulations prescribed by them, together with the law allowing commutation of time to prisoners for good conduct, to be printed and posted in conspicuous places in the cell houses and workshops.

Section 45. KRS 197.025 is amended to read as follows:

KRS 61.884 and 61.878 to the contrary notwithstanding, no inmate confined in a jail or any facility under the jurisdiction of the ***Department of*** Corrections [~~Cabinet~~] shall have access to any records relating to himself or any other inmate if the disclosure is deemed by the warden and treatment staff to constitute a threat to the security of the inmate, any other inmate, correctional staff, or the institution.

Section 46. KRS 197.030 is amended to read as follows:

The ***Department of*** Corrections [~~Cabinet~~] may enter into a contract with any railroad company for the construction of railroad switches, sidetracks, or spurs into the yards of the penitentiaries of the state, and may sell and convey rights-of-way owned by the state to any railroad company, and may grant rights-of-way to railroads across any penitentiary property of the state.

Section 47. KRS 197.055 is amended to read as follows:

(1) The ***Department of*** Corrections [~~Cabinet~~], in conjunction with the Cabinet for Human Resources, shall establish a mandatory introductory and continuing education program on human immunodeficiency virus and acquired immunodeficiency syndrome for all inmates. Programs shall be specifically designed for inmates while incarcerated and in preparation for release into the community. Consideration shall be given to cultural and other relevant differences among inmates in the development of educational materials and shall include emphasis on behavior and attitude change. The education program shall be continuously updated to reflect the latest medical information available.

(2) If there is evidence that an inmate, while in the custody of the ***department*** [~~cabinet~~], has engaged in behavior which places the inmate at a high risk of transmitting or contracting a human immunodeficiency disorder, the ***department*** [~~cabinet~~] shall begin a testing program which is consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority and shall target persons who have been involved in or reasonably thought to have been involved in a high risk behavior. For purposes of this subsection, "high-risk behavior" includes:

(a) Sexual contact with any person within the institution;

(b) The use of intravenous drugs;

(c) Tattooing; and

(d) Any other activity medically known to transmit the virus.

(3) The results of the tests shall become a part of that inmate's medical file, accessible only to persons designated by agency administrative regulations.

(4) The cabinet shall establish policies consistent with guidelines of the Centers for Disease Control and recommendations of the Correctional Medical Authority on the housing, physical contact, dining, recreation, and exercise hours or locations for inmates with immunodeficiency disorders as are medically indicated and consistent with the proper operation of its facilities.

(5) The ***department*** [~~cabinet~~] shall report to the General Assembly by July 1 each year as to the implementation of this program and the participation by inmates and staff.

(6) If an inmate is involved in a situation with a ***department*** [~~cabinet~~] employee which could result, according to the institution's physician, in the transmission of the human immunodeficiency virus infection, the inmate shall be tested.

(7) If an inmate is involved in a situation with a ***department*** [~~cabinet~~] employee which could result, according to the institution's physician, in the transmission of the human immunodeficiency virus infection, the inmate shall be tested.

Section 48. KRS 197.061 is amended to read as follows:

(1) The warden of each adult correctional institution shall designate the property officer as custodian of all property which is taken from the person of an inmate or which is lost or abandoned and taken into custody by any staff member.

(2) Any staff or inmate who finds abandoned or lost property shall report the property to the property officer in an attempt to see that the property is handled in a safe and appropriate manner.

(3) All the property shall be particularly described and registered by the property officer in a book kept for that purpose, containing the name of the owner, if ascertained, the place where found, the name of the person from whom it was taken, with the general circumstances of its receipt, the name of the officer recovering the property, the names of all claimants, and any final disposition of the property.

(4) In cases where the property is not claimed or is of minor value and no owner is sought because of the minor value, the property becomes the property of the state and shall be used or disposed of as would other state property.

(5) Unclaimed items which are in usable condition and which have an initial value of one hundred dollars ($100) or more or which bear a serial number shall be turned over to the institutional property officer so that the property officer can identify it with a ***department*** [~~cabinet~~] property number and report it to the ***department*** [~~cabinet~~] property section.

(6) No property shall be disposed of that has been in custody for less than ninety (90) days and for which reasonable efforts have not been made to ascertain and return property to the rightful owner.

(7) The warden shall designate the internal affairs officer custodian of all property alleged to be or suspected of being the proceeds of crime or alleged to be or suspected of having been used to facilitate the commission of a crime.

(8) Weapons and other items which may have been used in a crime shall be turned over to the internal affairs officer, who shall take steps to preserve the proper evidence chain. The physical evidence shall be placed in an evidence bag. A label shall be placed on the front of the bag containing the following information: name and number of suspect; name of victim, if applicable; date of incident; time of incident; name and position of staff recovering evidence; signature of staff recovering evidence verifying that all evidence is present and that the evidence label is correct. The internal affairs officer shall keep an evidence log book. If the evidence changes possession, the receiving person shall document from whom the evidence was received, and the date and time received.

(9) If removal of evidence or contraband is necessary for court presentation or laboratory analysis, the internal affairs officer shall notify the Department of State Police. In these cases, evidence or contraband shall be released to the State Police, and both the internal affairs officer and the State Police officer shall sign and date the evidence log indicating the transfer has occurred.

(10) Physical evidence shall be destroyed upon approval of the internal affair's officer only when no connection can be established between the physical evidence and the suspect of the crime committed.

Section 49. KRS 197.065 is amended to read as follows:

(1) The ***commissioner*** [~~secretary~~] shall ***classify*** [~~be charged with the duty of classifying~~] all prisoners and ***segregate the*** [~~with the duty of segregating said~~] prisoners in all of the state penal institutions and reformatories according to their past records, the probability of their being rehabilitated, the influence such prisoners might exert upon fellow prisoners, and for any other purpose that the ***commissioner*** [~~secretary~~], in his discretion, may deem sufficient for the discipline of the prisoners in any institution or reformatory, and for the rehabilitation of any [~~of said~~] prisoners.

(2) For the purposes of carrying out subsection (1) of this section, the ***commissioner shall*** [~~secretary is vested with the authority to~~] direct and compel the transfer of any prisoner from any penal institution or reformatory, irrespective of the order of the court committing ***the*** [~~said~~] prisoner to any one (1) institution or reformatory.

Section 50. KRS 197.070 is amended to read as follows:

(1) The ***Department of*** Corrections [~~Cabinet~~] shall provide employment for all prisoners in the penitentiaries and it shall exhaust every resource at its command to provide employment for all prisoners in its custody.

(2) The ***department*** [~~cabinet~~] shall acquire necessary equipment and materials and have manufactured all clothing, except that privately furnished, that is needed for the usual and suitable clothing of all state prisoners, and of all inmates in all state institutions, who are required to be clothed by the state. The ***department*** [~~cabinet~~] shall acquire equipment for the manufacture and production of all other state supplies, that in the reasonable discretion of the ***department*** [~~cabinet~~] is deemed practicable, and shall have ***the*** [~~such~~] products manufactured, sold, and distributed as provided in this chapter.

(3) The ***department*** [~~cabinet~~] shall establish industrial training in the penitentiaries and shall classify state prisoners according to the uses for prison labor and ability and talent of the prisoners, utilizing the best available local talent and [~~such~~] other talent ***that*** [~~as~~] may be obtained at an economical and practical cost, and shall select a suitable number of guards with ***the*** [~~such~~] qualifications, ***when*** [~~whenever~~] possible, and thereby avoid duplicate expense.

Section 51. KRS 197.110 is amended to read as follows:

The ***Department of*** Corrections [~~Cabinet~~] shall make ***administrative*** [~~such rules and~~] regulations [~~as~~] it deems necessary and proper in relation to:

(1) The classification of prisoners;

(2) The terms and conditions under which prisoners may be assigned to work under the direction of any other state agency;

(3) The adequate care, supervision, guarding, discipline, maintenance, transportation, and housing of prisoners when assigned to work outside of the prison. The ***department*** [~~cabinet~~] shall ascertain from the jailer of the county in which the work is being carried on if accommodations are available, and shall place as many prisoners as possible under the care of the jailer;

(4) The payment of money to [~~such~~] prisoners and their dependents for work performed, including the amount to be paid and the manner of the payment and distribution thereof;

(5) ***Any*** [~~Such~~] other purposes as the ***department*** [~~cabinet~~] deems necessary and proper for carrying out the intent of this chapter.

Section 52. KRS 197.120 is amended to read as follows:

The ***Department of*** Corrections [~~Cabinet~~] may enter into contracts with any other state agency for the use and employment of prisoners who may be eligible for ***the*** [~~such~~] assignments. The contracts shall specifically set forth the compensation to be paid to the ***Department of*** Corrections [~~Cabinet~~] for the use and employment of the prisoners, for the payment of the expenses of transporting, guarding, housing, disciplining, and maintaining the prisoners while so employed. [~~and~~] The amount to be paid shall be certified by the contracting parties to the Finance and Administration Cabinet at the end of each month and shall be charged to the appropriation of the agency liable for the payment thereof and credited to the budget of the ***department*** [~~cabinet~~] to be disbursed and expended as it directs. Any [~~such~~] contract may provide for a fixed per diem compensation to be paid to the ***department*** [~~cabinet~~] for each day's work performed by the prisoner and the ***department*** [~~cabinet~~] shall pay, out of the per diem compensation, the expenses of transporting, guarding, disciplining, housing, and maintaining prisoners as may be provided in the contracts.

Section 53. KRS 197.140 is amended to read as follows:

No prisoner who is serving a sentence for rape, attempted rape, or who has been convicted of robbery in the first degree, assault in the first degree, or who has been sentenced to life imprisonment shall be worked or released for work outside of the walls of the prison until he has actually served within the walls of the prison for at least one (1) year of his sentence and has been classified as minimum custody according to the ***Department of*** Corrections [~~Cabinet's~~] classification system. No prisoner who has escaped or attempted to escape from an adult correctional institution or local detention center or jail within the past five (5) years shall be worked or released for work outside of the walls of the prison.

Section 54. KRS 197.150 is amended to read as follows:

(1) The ***administrative*** [~~rules and~~] regulations made by the ***Department of*** Corrections [~~Cabinet~~] shall provide some definite compensation to be paid to each prisoner or his dependents for each day he works outside of the prison. The ***department*** [~~Corrections Cabinet~~] shall collect information concerning the number and requirements of the dependents of each prisoner, and those with families of greatest dependency shall be given preference in assignments to work outside of the prison, if the record, physical ability, and conduct of the prisoner warrants [~~such~~] preference.

(2) The ***administrative*** [~~rules and~~] regulations may provide that any infraction of ***the regulations*** [~~such rules~~] or of the ***regulations*** [~~rules~~] governing the discipline of the prisoners, either while confined within the walls of the prison, or while engaged in employment outside the prison, shall work a forfeiture of the benefits authorized in this section, either in whole or in part, in the discretion of the ***department*** [~~Corrections Cabinet~~]. Payments to the prisoners or their dependents as authorized by this section shall be made subject

to the [~~rules and~~] regulations, as other expenses of the ***department*** [~~Corrections Cabinet~~], but only out of the funds made available under the provisions of the particular contract under which the prisoners have been employed.

Section 55. KRS 197.175 is amended to read as follows:

The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] may permit the release of the prisoners on the first day of the month in which their sentences would expire; if the first day of the month falls on Saturday, Sunday, or a legal holiday, the prisoners may be released on the last weekday of the preceding month.

Section 56. KRS 197.180 is amended to read as follows:

The ***department*** [~~cabinet~~] shall furnish to each convict, upon the termination of his sentence[~~,~~] or his release by pardon or parole, [~~with~~] not more than seventy-five dollars ($75) and a suit of serviceable clothing, suitable to the season, and [~~with~~] transportation to a county within the borders of the Commonwealth. The amount of money to be furnished to the convict shall be based upon his need as determined by the ***commissioner*** [~~secretary~~] or a person designated by the ***commissioner*** [~~secretary~~] in accordance with regulations of the ***department*** [~~cabinet~~]. The transportation shall be paid by the state and shall be nontransferable.

Section 57. KRS 197.200 is amended to read as follows:

The ***department may*** [~~Corrections Cabinet is hereby authorized to~~] purchase in the manner provided by law, equipment, raw materials, and supplies, and [~~to~~] employ the supervisory personnel necessary to establish and maintain [~~for this state~~], industries at the penitentiary or any penal farm or institution of the ***department*** [~~Corrections Cabinet~~], for the purpose of utilizing the services of prisoners in the manufacture or production of [~~such~~] articles or products, including license plates, road signs, and other articles and products [~~heretofore manufactured or produced, as may be~~] needed for the construction, operation, maintenance, or use of any office, department, institution, or agency supported in whole or in part by this state or ***its*** [~~the~~] political subdivisions [~~thereof~~].

Section 58. KRS 197.210 is amended to read as follows:

(1) On and after June 17, 1954, all offices, departments, institutions [~~and~~] agencies***, and all political subdivisions*** [~~of this state~~] which are supported in whole or in part by ***the Commonwealth*** [~~this state~~] shall purchase, [~~and all political subdivisions of this state shall purchase,~~] when economically feasible, from the ***department*** [~~Corrections Cabinet~~] all articles or products required ***which are*** [~~by such offices, departments, institutions, agencies, or political subdivisions of this state,~~] produced or manufactured by prison labor, as provided by KRS 197.200 to 197.250.[~~, and~~] No [~~such~~] article or product shall be purchased by any [~~such~~] office, department, institution, or agency, from ***any*** [~~other~~] source ***except as specified in this subsection***.[~~, except as hereinafter provided:~~]

Exceptions may be made in any case where, in the opinion of the Finance and Administration Cabinet, the articles or products [~~so~~] produced or manufactured do not meet the reasonable requirements of ***the*** [~~such~~] offices, departments, institutions, agencies, or[~~, in any case,~~] where the requisition cannot be reasonably complied with because of an insufficient supply of the articles or products required. However, no office, department, institution, or agency, shall be allowed to evade the intent and meaning of KRS 197.200 to 197.250 by slight variations from standards adopted by the division of purchases, when the articles or products produced or manufactured by the ***department*** [~~cabinet~~] in accordance with ***the*** [~~said~~] standards, are reasonably adapted to the actual needs of ***the*** [~~such~~] office, department, institution, or agency.

(2) All purchases[~~,~~] under KRS 197.200 to 197.250 shall be made through the Finance and Administration Cabinet upon requisition by the proper authority of the office, department, institution, agency, or political subdivision of ***the Commonwealth*** [~~this state~~].

Section 59. KRS 197.220 is amended to read as follows:

The articles or products manufactured or produced by prison labor in accordance with the provisions of KRS 197.200 to 197.250 shall be devoted, first, to fulfilling the requirements of the offices, departments, institutions, and agencies [~~of this state~~] which are supported in whole or in part by ***the Commonwealth*** [~~this state~~], and, ***second*** [~~secondly~~], to supply the political subdivisions of this state with ***these*** [~~such~~] articles and products.

Section 60. KRS 197.230 is amended to read as follows:

The ***department*** [~~Corrections Cabinet~~], with the approval of the Finance and Administration Cabinet, shall establish the prices at which all articles or products manufactured or produced shall be furnished.

Section 61. KRS 197.240 is amended to read as follows:

All moneys collected by the ***department*** [~~Corrections Cabinet~~] from the sale or disposition of articles and products manufactured or produced by prison labor in accordance with the provisions of KRS 197.200 to 197.250, shall be [~~forthwith~~] deposited with the State Treasurer [~~to be there kept~~] and maintained as special revolving accounts, each designated as a "Trust and Agency Account." ***The*** [~~as now in effect, and as may be necessary, and such~~] moneys [~~so~~] collected and deposited shall be used for the purposes of carrying out KRS 197.200 to 197.250, except that ***the*** [~~such~~] moneys may be used for other than prison industry purposes within the ***department*** [~~Corrections Cabinet~~] with the approval of the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] and the Finance and Administration Cabinet.

Section 62. KRS 197.250 is amended to read as follows:

The ***department may*** [~~Corrections Cabinet is authorized to~~] enter into contracts approved by the State Property and Buildings Commission with any person or persons upon a self-liquidating basis respecting the acquisition and purchase of any [~~such~~] equipment, tools, supplies, and materials, so that it may be paid for over a period of not exceeding five (5) years. The aggregate amount of ***the*** [~~such~~] purchases or acquisitions shall not exceed two hundred and fifty thousand dollars ($250,000) unless specifically approved by the Governor and ***the*** [~~such~~] amounts ***shall*** [~~are to~~] be payable solely out of the revenues derived from the activities authorized by KRS 197.200 to 197.250. Nothing in this section shall be so construed or interpreted as to authorize or permit the incurring of a state debt of any kind or nature as contemplated by the Constitution.

Section 63. KRS 197.400 is amended to read as follows:

The ***department*** [~~Corrections Cabinet~~] shall operate a specialized treatment program for sexual offenders, hereinafter referred to as the "program."

Section 64. KRS 197.410 is amended to read as follows:

(1) A person is considered to be a "sexual offender" as used in this chapter when he:

(a) Has been adjudicated guilty of any felony described in KRS Chapter 510; or

(b) Has been adjudicated guilty of any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510; or

(c) Has been adjudicated guilty of any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510; or

(d) Has been adjudicated guilty of a felony offense under KRS 530.020; or

(e) Has been adjudicated guilty of a felony offense under KRS 530.064; or

(f) Has been adjudicated guilty of a felony offense under KRS 531.310.

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or ***department*** [~~cabinet~~] officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and

(b) Is likely to benefit from the program.

(3) "***Department*** [~~Cabinet~~]" is the ***Department of*** Corrections [~~Cabinet~~].

Section 65. KRS 197.420 is amended to read as follows:

(1) The ***department*** [~~Corrections Cabinet~~] shall have the sole authority and responsibility for establishing by regulation the design of the specialized program created in KRS 197.400 to 197.440.

(2) The program shall include diagnostic and treatment services in both in-patient and out-patient environments:

(a) "Diagnostic services" shall include social and family histories, medical history, educational development, interpersonal development, criminal history, psychological screening, and pre-release evaluation;

(b) "Treatment services" shall include individualized treatment plans to include individual, group, marital, and family counseling; psychoeducational courses to include sex education and victim personalization; and social skills development to include assertiveness training, stress management, and aggression management; and

(c) The ***department*** [~~cabinet~~] shall have the authority and responsibility for establishing [~~such~~] other educational and work programs necessary to complement treatment program objectives.

(3) The ***department*** [~~Corrections Cabinet~~] may transfer sexual offenders sentenced to its custody to the program and shall adopt ***administrative*** [~~rules and~~] regulations concerning the transfer of sexual offenders.

(4) All sexual offenders participating in the program may be housed separately from all other incarcerated inmates but shall be housed in accordance with the ***department's*** [~~cabinet's~~] standard classification system.

(5) The treatment staff of the program shall minimumly consist of the following staff:

(a) A program director who has at least a master's degree in a recognized mental health field and six (6) years' clinical experience or a doctoral degree in a recognized mental health field and four (4) years' clinical experience. The director shall decide program policies and supervise all staff;

(b) A clinical psychologist or a master's degree level psychologist for each two hundred (200) participants.[~~, provided that~~] At least one (1) clinical psychologist shall be a member of the staff at all times; and

(c) A counselor for each fifty (50) participants.

(6) The ***department*** [~~cabinet~~] shall establish a system of data collection and program evaluation so as to allow study of participating sexual offenders and their offenses and to measure the impact of the program on recidivism.

Section 66. KRS 197.430 is amended to read as follows:

The ***department*** [~~cabinet~~] may enter into agreements with public or private agencies in order to implement and operate the program created by KRS Chapter 197.

Section 67. KRS 197.440 is amended to read as follows:

Communications relative to a sexual offender's diagnosis and treatment in the program, made between a sexual offender or member of the offender's family and any employee of the ***department*** [~~cabinet~~] who is assigned to work in the program, shall be privileged from disclosure in any civil or criminal proceeding, unless the offender consents to the disclosure or the communication is related to an ongoing criminal investigation. The privilege created by this section shall not extend to disclosures made in an administrative hearing for the purpose of determining whether the offender should continue to participate in the program. The offender shall be informed in writing of the limits of the privilege created herein.

Section 68. KRS 197.500 is amended to read as follows:

As used in KRS 197.505 to 197.525 unless the context otherwise requires:

(1) "***Department*** [~~Cabinet~~]" means the ***Department of*** Corrections [~~Cabinet~~];

(2) "Adult correctional facility" means an adult male penal or correctional facility for the exclusive confinement of sentenced adult male felons who have been classified by the ***department*** [~~cabinet~~] to be minimum security inmates and shall include any prison, reformatory, farm center, forestry camp, or similar institution which houses minimum security sentenced adult male felons. For purposes of KRS 197.505 to 197.525, a county or regional jail shall not be considered an adult correctional facility; and

(3) "Private provider" means a private legal entity authorized to do business in the Commonwealth and which is in the business of establishing, operating and managing adult correctional facilities.

Section 69. KRS 197.510 is amended to read as follows:

Any contract entered on or after July 15, 1988, between the state and a private provider for the operation and management of an adult correctional facility shall include terms which comply with at least the following:

(1) Unless otherwise provided by KRS 197.505 to 197.525, any adult correctional facility contracted for pursuant to KRS 197.505 shall submit a plan to the ***department*** [~~Corrections Cabinet~~] for achieving American Correctional Association standards within five (5) years, which is appropriate for the specific type of adult correctional facility.

(2) The provisions of KRS Chapter 45A shall apply to any contract or any proposal for a contract authorized by KRS 197.505 to 197.525 for an adult correctional facility.

(3) The adult correctional facility shall prepare an annual written budget of anticipated revenues and expenditures which is approved by the appropriate governing authority. The facility shall have written policies which govern revisions in the budget. The facility shall have a fiscal system which accounts for all income and expenditures on an on-going basis.

(4) The adult correctional facility shall prepare and distribute to its governing authority and appropriate agencies including the ***department*** [~~corrections cabinet~~], at a minimum, the following documents: annual budget income and expenditure statements; funding source financial reports; and annual independent audit report.

(5) The adult correctional facility shall have written fiscal policies and procedures adopted by the governing authority which include at a minimum: internal controls; petty cash; bonding; signature control on checks; resident funds; and employee expense reimbursement.

(6) There shall be an annual independent audit of the adult correctional facility. The facility shall have a written policy for inventory control of all property and assets and for purchasing and requisitioning supplies and equipment. The facility shall use a method which documents and authorizes wage payment to employees and consultants.

(7) The private provider shall develop and implement a plan for the dissemination of information about the adult correctional facility to the public, government agencies, and the media. The plan shall be made available to all persons. All documents and records, except financial records, maintained by the private provider shall be deemed public records as defined by KRS 61.870 and be subject to the provisions of KRS 61.872 to 61.884.

(8) The adult correctional facility shall conform to all applicable zoning ordinances and all applicable state and local building codes, including the Kentucky Building Code, 1983 edition and subsequent modifications or replacements thereto.

(9) The adult correctional facility shall comply with all applicable laws and regulations of the local and state government regarding sanitation, food service, [~~and~~] safety, and health. Copies of inspections completed by the appropriate authorities shall be sent to the ***department*** [~~Corrections Cabinet~~].

(10) The adult correctional facility shall comply with the provisions of the Life Safety Code, 1983 edition, National Fire Protection Association 101 and the regulations of the state or the local fire safety authority, whichever has primary jurisdiction over the adult correctional facility. Copies of the inspections completed by the appropriate authorities shall be sent to the ***department*** [~~cabinet~~].

(11) A minimum of sixty (60) square feet of floor space per resident shall be provided in the sleeping area of the adult correctional facility. Other areas to be provided shall include space and furnishings to accommodate group meetings of the residents, private counseling space with adequate furniture, and a visiting area.

(12) The adult correctional facility shall provide a variety of indoor and outdoor recreational and leisure time activities to include but not be limited to: television, radio, library materials, and recreational facilities. Telephone facilities shall be available on the premises, which are accessible to residents.

(13) The adult correctional facility shall be staffed twenty-four (24) hours per day seven (7) days per week. The staffing pattern shall be adequate to insure close inmate surveillance and maintenance of security within the facility. The staffing pattern shall address the program, transportation, and security needs of the facility. In determining security need, the proximity of the facility to neighborhood and schools shall be considered.

(14) The adult correctional facility shall have a written personnel policy and employees shall be given a copy. The personnel policies shall include, at a minimum:

(a) Organization chart;

(b) Employment practices and procedures including in-service training and staff developing;

(c) Promotions;

(d) Job qualifications and job descriptions;

(e) Grievance and appeal procedures;

(f) Employee evaluation;

(g) Personnel records;

(h) Benefits;

(i) Holidays;

(j) Leave;

(k) Hours of work;

(l) Salaries (or the base for determining salaries);

(m) Disciplinary procedures;

(n) Termination; and

(o) Resignation.

(15) The adult correctional facility shall maintain written job descriptions and job qualifications for all positions in the facility including: job title, responsibilities of the positions, and required minimum experience and education. An affirmative action program shall be adopted by the governing authority. The correctional facility shall maintain a current, accurate, and confidential personnel record on each employee. The facility shall have written policy and procedures requiring an annual performance evaluation of all employees. This evaluation shall be reviewed and discussed with the employee.

(16) Prior to employment, all employees of the adult correctional facility shall be subject to thorough background investigation to include criminal, medical, and employment history. All security employees of the facility shall be at least twenty-one (21) years of age. The facility shall provide initial orientation for all new employees during the first week of employment. The facility shall comply with all governmental regulatory requirements related to employment and personnel practices. Personnel selection and assignments shall be based on merit.

(17) The administrator of the adult correctional facility shall have a minimum of five (5) years experience in corrections or law enforcement and five (5) years experience in administration. The remaining staff of the facility shall have the same qualifications and training as the staff employed in similar positions in adult correctional facilities operated by the ***department*** [~~Corrections Cabinet~~].

(18) The adult correctional facility shall provide the following services and programs, the extent to which shall be set forth in the contract between the state and the private provider but shall be consistent with the standards of the American Correctional Association:

(a) Health and medical services;

(b) Food services;

(c) Mail, telephone use, and visitation;

(d) Access to legal services and legal materials;

(e) Vocational training;

(f) Educational programs;

(g) Counseling services including personal counseling;

(h) Drug and alcohol counseling; and

(i) Sanitation services.

(19) The adult correctional facility shall have a written fire and emergency plan for the facility which shall be communicated to all employees and inmates and updated, if needed. The facility's written emergency plan shall be conspicuously posted in the facility. The facility staff shall document the conduct of quarterly emergency drills.

(20) The adult correctional facility shall have a written policy restricting the use of physical force to instances of justifiable self-protection, prevention of property damage and prevention of escapes, and only to the degree necessary. In compliance with applicable laws, the facility shall maintain and make public[~~,~~] written policies and procedures for conducting searches of residents and all areas of the facility, to control contraband and locate missing or stolen property. The facility shall have a written plan to control movement in and out of the facility. The facility shall have written procedures to account for the whereabouts of the residents at all times.

(21) The adult correctional facility shall establish a procedure for inspecting all facility areas accessible to inmates for contraband and physical security at least weekly. Isolated security spot checks shall be conducted daily. Items considered as contraband or items permitted in the facility shall be clearly defined in the facility's rules.

(22) The adult correctional facility shall report all suspected felonies to the Kentucky State Police for investigation. A written report shall be made of all extraordinary or unusual occurrences within twenty-four (24) hours of the occurrence. This report shall be placed in the inmate's folder and a copy forwarded to the ***department*** [~~Corrections Cabinet~~]. All ***the*** [~~such~~] occurrences shall be promptly reported to the ***department*** [~~cabinet~~] verbally prior to submission of the written report. Extraordinary or unusual occurrences shall include, but not be limited to:

(a) Death of a resident;

(b) Attempted suicide or suicide;

(c) Serious injury, whether accidental or self-inflicted;

(d) Attempted escape or escape from confinement;

(e) Fire;

(f) Riot;

(g) Battery, whether by a staff member or resident;

(h) Sexual assaults; and

(i) Occurrence of contagious or infectious disease, or illness within the facility.

(23) Each adult correctional facility shall have written policy and procedures for emergency situations including but not limited to:

(a) Escapes;

(b) Taking of hostages;

(c) Riots;

(d) Food poisoning;

(e) Civil disturbances in the community;

(f) Natural disaster;

(g) Suicides; and

(h) Other deaths and disorder.

(24) The adult correctional facility shall adopt a written policy and procedures which shall insure that the constitutional rights of inmates to voluntarily practice their own religious activities are protected, subject only to those limitations necessary to maintain order and security of the facility.

(25) The adult correctional facility shall adopt a written policy which shall be implemented to insure that no inmate or group of inmates is in a position of control or authority over other inmates.

(26) The adult correctional facility shall have a policy and procedure for recommending awarding of meritorious good time for inmates in accordance with policies and procedures of the ***department*** [~~cabinet~~]. The procedures shall include formation of a committee to include an administrator to screen all recommendations. The recommendations shall be sent to the ***department*** [~~Corrections Cabinet~~]. Recommendations for restoration of good time shall be screened by the same committee and forwarded to the ***department*** [~~Corrections Cabinet~~].

(27) If the adult correctional facility operates a canteen, all profits must be spent for recreational programs for inmates. Prices shall be in accordance with those established by the ***Department of*** Corrections [~~Cabinet~~] Inmate Canteen Board.

(28) The ***department*** [~~Corrections Cabinet~~] shall have the authority to conduct periodic, scheduled and unannounced inspections of the adult correctional facility during the term of the contract. The ***department*** [~~cabinet~~] shall generally observe and monitor the operations of the adult correctional facility at least once per week.

(29) The contract shall provide a hold harmless clause whereby the private provider agrees to indemnify, defend and hold harmless the Commonwealth, its officers, agents, and employees from:

(a) Any claims or losses for service rendered by the private provider, person, or firm performing or supplying services in connection with performance of the contract;

(b) Any claims or losses to any person or firm injured or damaged by the erroneous or negligent acts of the private provider, its officers, or employees in the performance of the contract;

(c) Any claims or losses resulting to any person or firm injured or damaged by the private provider, its officers, or employees by the publication, translation, reproduction, delivery, performance, use, or disposition of any data processed under the contract in a manner not authorized by the contract, or by federal or Commonwealth regulations or statutes; and

(d) Any failure of the private provider, its officers, or employees to observe Kentucky laws, including, but not limited to, labor laws and minimum wage laws.

(30) The contract shall require that the private provider give a performance bond to the Commonwealth as obligee, in form satisfactory to the Commonwealth, executed by a surety company authorized to do business in Kentucky and in the penal sum of equal to: seventy percent (70%) multiplied by the maximum number of inmates to be housed in the adult correctional facility multiplied by three hundred sixty-five (365) and further multiplied by the rate to be paid the private provider per inmate per day.

(31) The private provider shall provide public liability, property damage, and workers' compensation insurance, insuring as they may appear, the interest of all parties of agreement against any and all claims which may arise out of the private provider's operations under the terms of this contract. ***If*** [~~In the event~~] any carrier of ***the*** [~~such~~] insurance exercises cancellation, notice shall be made immediately to the Commonwealth of ***the*** [~~such~~] cancellation.

Section 70. KRS 197.515 is amended to read as follows:

The ***department*** [~~Corrections Cabinet~~] shall annually conduct a performance evaluation of any adult correctional facility for which a private provider has contracted to operate. The ***department*** [~~cabinet~~] shall make a written report of its findings and submit this report along with any recommendations to the private provider and the Legislative Research Commission.

Section 71. KRS 197.525 is amended to read as follows:

(1) In any provision of KRS 197.505 to 197.525 which requires the private provider or adult correctional facility to establish or implement a policy or procedure governing a particular activity or duty, the ***department*** [~~cabinet~~] shall first approve the policy or procedure before it shall become effective.

(2) Consistent with the provisions of KRS 197.505 to 197.525, the ***department*** [~~cabinet~~] shall promulgate administrative regulations governing the standards, operation, and management of adult correctional facilities which may be contracted for pursuant to KRS 197.505.

Section 72. KRS 202A.201 is amended to read as follows:

(1) ***When*** [~~Whenever~~] an inmate of any penal and correctional institution is reported by the staff of that institution to the ***Department of*** Corrections [~~Cabinet~~] as being so mentally ill that he cannot be properly treated with the facilities at the disposal of the staff, the ***Department of*** Corrections [~~Cabinet~~] shall have an examination conducted on ***the*** [~~such~~] inmate by a physician.

(2) If this examination reveals that the inmate is mentally ill and appropriate treatment cannot be properly carried out in the institution in which he is incarcerated or within the facilities at the disposal of the ***Department of*** Corrections [~~Cabinet~~], the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] may then request of the secretary of the Cabinet for Human Resources the inmate's transfer to a hospital or forensic psychiatric facility. If the secretary of the Cabinet for Human Resources agrees that [~~such~~] a transfer is necessary, the person shall be transferred to a Cabinet for Human Resources facility designated by the secretary of the Cabinet for Human Resources, where the person shall remain until the staff of the facility which received him advises the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] that the person's condition is such that he may be returned to the institution from which he came.[~~, provided that~~] No transfer shall be made to a correctional facility located on the grounds of a state mental hospital. The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] shall then authorize his return. If the prisoner's sentence expires during his stay in the facility and he is still in need of involuntary hospitalization, [~~then~~] the staff of the facility shall petition the applicable District Court for further involuntary hospitalization of the patient under provisions of this chapter.

(3) Prior to the issuance of an order of transfer and unless the prisoner voluntarily agrees to the transfer, the ***commissioner*** [~~secretary~~] shall:

(a) Send written notice to the prisoner that a transfer to a hospital or forensic psychiatric facility is being considered in sufficient time to permit the prisoner to prepare for the hearing;

(b) Hold a hearing at which time the prisoner is made aware of the evidence being relied upon for the transfer and at which an opportunity to be heard in person and to present documentary evidence is given;

(c) Provide an opportunity at the hearing to the prisoner to present testimony of witnesses and to confront and cross-examine witnesses called by the ***Department of*** Corrections [~~Cabinet~~], except upon a finding, not arbitrarily made, of good cause for not permitting ***the*** [~~such~~] presentation;

(d) Provide an independent decision maker who has not participated in the request for transfer to a hospital or forensic psychiatric facility;

(e) Issue a written statement by the factfinder as to the evidence relied on and the reasons for transferring the prisoner; and

(f) Provide effective and timely notice of all the foregoing rights.

(4) During the time of the prisoner's stay in a facility, his legal status as a prisoner shall remain unchanged until the termination of his sentence. The facility staff shall have no authority to parole, grant permission to visit relatives or friends outside the facility, or discharge the individual unless otherwise agreed to by the ***Department of*** Corrections [~~Cabinet~~]. The time the prisoner spends in the facility shall be counted as a part of the prisoner's sentence.

Section 73. KRS 208.815 is amended to read as follows:

The Cabinet for Human Resources shall have the sole authority and responsibility for establishing the design of the specialized program created in KRS 208.800 to 208.850, but shall consult with the Administrative Office of the Courts and the ***Department of*** Corrections [~~Cabinet~~].

Section 74. KRS 208.835 is amended to read as follows:

The board shall be composed of the following members:

(1) Members appointed by the Governor for a term of four (4) years:

(a) Two (2) employees of the Cabinet for Human Resources who deal with the problems of children or domestic violence;

(b) Two (2) employees of the ***Department of*** Corrections [~~Cabinet~~], one (1) of whom shall be a specialist dealing with sex offenders;

(c) A Commonwealth's attorney;

(d) A county attorney;

(e) A District Judge;

(f) A local police officer dealing with juvenile offenders or sex offenders;

(g) The juvenile justice supervisor of the Justice Cabinet; and

(h) Three (3) citizens at large;

(2) Members who serve as voting members on an ex officio basis:

(a) The commissioner of State Police or his designee; and

(b) The Attorney General or his designee.

Section 75. KRS 208.850 is amended to read as follows:

(1) The Cabinet for Human Resources shall maintain on file, for a period of fifteen (15) years following their participation in the program, the names and identities of the individuals who participated. ***The*** [~~Such~~] names and identities shall not be disclosed except for the purposes allowed in this section.

(2) On a biannual basis, beginning in the 1988-90 biennium, the Cabinet ***for Human Resources*** shall request from the Administrative Office of the Courts and the ***Department of*** Corrections [~~Cabinet~~] information concerning whether any of the individuals who participated in the program have been arrested, tried, convicted, or incarcerated for any offense under KRS Chapter 510 or any other criminal offense.

(3) On or before January 1, 1990, and for each two (2) years thereafter, the Cabinet for Human Resources shall compile the information obtained and present it to the General Assembly and the Governor as part of the Juvenile Sex Offender Treatment Board's annual report. ***The*** [~~Such~~] report shall not contain the names of any of the individuals who participated in the program, but shall contain such identifying information as shall be helpful in evaluation of the program and in determination of whether participants have engaged in criminal behavior as adults.

Section 76. KRS 211.925 is amended to read as follows:

In addition to all other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

(1) Adopt, modify, and repeal [~~rules,~~] regulations[~~,~~] and standards relating to the public health or health aspects of the operation of state confinement facilities, and exercise general supervision over the administration of KRS 211.920 to 211.945 and assist in the enforcement of all [~~rules,~~] regulations[~~,~~] and standards promulgated pursuant to it;

(2) Collect, evaluate, and disseminate information from state confinement facilities as it relates to the public health of the people of the Commonwealth;

(3) Develop comprehensive plans for the elimination of conditions in state confinement facilities which adversely affect the public health or the health of those persons confined or likely to be confined in any state confinement facility;

(4) Enter upon the premises and inspect any state confinement facility for the purpose of determining the extent of compliance with KRS 211.920 to 211.945 and investigating the effect of the operation of state confinement facilities upon the public health or the health of those persons confined or likely to be confined in any state confinement facility;

(5) Advise, consult, and cooperate with other agencies of the Commonwealth, including the ***Department of*** Corrections [~~Cabinet~~], other jurisdictions, the federal government, interstate and interlocal agencies, and local governments regarding the effects of the operation of confinement facilities upon the public health;

(6) Accept, receive, and administer grants or other funds or gifts from public and private agencies for the purpose of implementing KRS 211.920 to 211.945.

Section 77. KRS 211.927 is amended to read as follows:

The cabinet shall cooperate with the ***Department of*** Corrections [~~Cabinet~~] in the development of regulations concerning the public health or health aspects of jails as defined in KRS 441.005 and shall assist in the training of jail inspectors employed by the ***Department of*** Corrections [~~Cabinet~~].

Section 78. KRS 215.520 is amended to read as follows:

The secretary of the Cabinet for Human Resources shall discharge all duties relating to all matters of tuberculosis control, including, but not limited to, the following:

(1) The operation of all hospitals previously operated by the State Tuberculosis Hospital Commission, or such of them as it determines to be necessary for the care of persons needing treatment for tuberculosis;

(2) The operation of a system of out-patient clinics and X-ray facilities, adequately supported by high quality laboratory facilities;

(3) The provision of training for employees;

(4) The supervision of activities of all local health departments regarding tuberculosis control;

(5) The adoption of regulations for tuberculosis control;

(6) The maintenance of a central register of all known cases of tuberculosis in the Commonwealth, and [~~such~~] local registers as [~~are~~] desirable, and the collection, collation, analysis, and publication of statistics and other information;

(7) The establishment and supervision of tuberculosis programs in cooperation with the ***Department of*** Corrections [~~Cabinet~~], Department of Education, and other state agencies within their respective jurisdictions;

(8) The establishment within the Cabinet for Human Resources of appropriate social service and financial responsibility appraisal methods to insure that tuberculosis patients or suspects receive all possible support from third-party payors, or from the Medical Assistance Program before becoming a charge against the tuberculosis control funds of the Commonwealth;

(9) The dissemination of educational materials to the citizens of the Commonwealth regarding tuberculosis and its control;

(10) The initiation of special programs and demonstrations in cooperation with agencies of the federal government, universities, voluntary agencies, and other individuals or corporations;

(11) The provision of direct assistance to local health departments, to other agencies of state government, and to other organizations to assist them in carrying out programs of tuberculosis control; and

(12) Except as otherwise provided by law, to do all other things reasonably necessary to carry out the intent of this section and KRS 215.540 to 215.600.

Section 79. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the Fair Packaging and Labeling Act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits. The authority to promulgate regulations pursuant to KRS 217.005 to 217.205 is restricted to the Cabinet for Human Resources.

(2) No person shall operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant without having obtained an annual permit to operate from the cabinet. An application

for the permit to operate shall be made to the cabinet upon forms provided by it and shall be accompanied by the required fee as shall be provided by regulation. The secretary shall establish a fee schedule according to authorization in the state budget document. Fees collected by the cabinet shall be deposited in the State Treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of the account shall lapse to the general fund at the end of each biennium.

(3) No person shall operate a retail food establishment without having obtained a permit to operate from the cabinet. An application for a permit to operate any retail food establishment shall be made to the cabinet upon forms provided by it and shall contain the information the cabinet may reasonably require.

(4) Except as otherwise provided in subsection (6) of this section, each application for a temporary food service establishment or for an annual permit to operate a retail food establishment shall be accompanied by the required fee. The secretary shall establish a fee schedule according to authorization in the state budget document.

(5) Upon receipt of an application for a permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment accompanied by the required fee, the cabinet shall issue a permit if the establishment meets the requirements of KRS 217.005 to 217.215 and regulations adopted by the cabinet. Retail food establishments holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 217.005 to 217.215 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner.

(6) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth grade and all facilities operated by the Cabinet for Human Resources or ***Department of*** Corrections [~~Cabinet~~] shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 217.005 to 217.215 and the state retail food establishment code.

(7) Each annual permit to operate a food processing establishment, food storage warehouse, salvage distributor, or salvage processing plant or a retail food establishment, unless previously suspended or revoked, shall expire on December 31 following its date of issuance, and be renewable annually upon application accompanied by the required fee, except as otherwise provided in subsection (6) of this section, and ***if*** [~~provided~~] the establishment is in compliance with KRS 217.005 to 217.215 and regulations of the cabinet.

(8) Each permit to operate a food processing establishment, food storage warehouse, salvage distributor, [~~or~~] salvage processing plant, or a retail food establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 80. KRS 218A.435 is amended to read as follows:

(1) There is hereby created a trust and revolving fund in the executive branch of state government to be known as the "Asset Forfeiture Trust Fund" herein referred to as the "trust fund".

(2) The trust fund shall consist of proceeds from sale of property forfeited to the Commonwealth pursuant to KRS 218A.410, any moneys as may be appropriated by the General Assembly, and any investment interest earned on the fund. The moneys in this fund are intended to supplement any funds appropriated by the General Assembly to the agency which will receive disbursements from the trust fund as provided in this section.

(3) The trust fund shall be managed by the state Office for Investment and Debt Management and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund shall be administered and audited by the Justice Cabinet. The secretary of justice or his designee shall promulgate administrative regulations necessary to further the purposes of KRS 218A.405 to 218A.460.

(5) The trust fund shall be disbursed in accordance with the provisions of subsection (6) of this section. All interest accumulated on the fund shall immediately be available for disbursement to the Justice Cabinet for costs associated with administration of the fund.

(6) The Justice Cabinet shall, upon advice from the Office for Investment and Debt Management, allocate the moneys in the fund quarterly, on a percentage basis, as provided in subsection (7) of this section.

(7) The principal of the trust fund shall be distributed as follows:

(a) Eighteen percent (18%) of the funds received in any fiscal year shall be allocated to the unified prosecutorial system to be disbursed by the Attorney General to those Commonwealth's attorneys or county attorneys who have participated in the forfeiture case;

(b) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the Cabinet for Human Resources to be used solely for the purpose of drug and alcohol abuse education, prevention, and treatment;

(c) Thirty-six percent (36%) of the funds received in any fiscal year shall be allocated to the ***Department of*** Corrections [~~Cabinet~~] to be used solely for programs related to drug enforcement and incarceration; and

(d) Ten percent (10%) of the funds received in any fiscal year shall be allocated to the Justice Cabinet to be used solely for the purpose of: training related to asset forfeiture; printing program related training materials, such as manuals or handbooks; or payments to state or local agencies for programs relative to crime prevention, drug abuse prevention, general law enforcement purposes, or other similar purposes relating to drug enforcement.

(8) The Attorney General, the secretary of the Cabinet for Human Resources, the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~], and the secretary of the Justice Cabinet or their designees shall each promulgate administrative regulations which itemize the programs on which the moneys allocated from the trust fund to their respective agencies shall be spent and the method by which those moneys shall be disbursed to local entities.

(9) On July 13, 1990, each state and local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible for the receipt of grants from the trust fund, adopt policies relating to the seizure, maintenance, storage, and care of property pending forfeiture which are in compliance with or which substantially comply with the model policy for seizure of forfeitable assets by law enforcement agencies published by the Department of Criminal Justice Training. However, a state or local law enforcement agency may adopt policies that are more restrictive on the agency than those contained in the model policy and that fairly and uniformly implement the provisions of this chapter.

(10) On July 13, 1990, each state or local law enforcement agency which seizes property for the purpose of forfeiture under KRS 218A.410 shall, prior to being eligible to receive grants from the trust fund, have one (1) or more officers currently employed attend asset forfeiture training as approved by the Kentucky Law Enforcement Council which shall approve a curriculum of study for asset forfeiture training.

(11) Other provisions of this section notwithstanding, any vehicle seized by a law enforcement agency which is forfeited pursuant to this chapter may be retained by the seizing agency for official use or sold within its discretion. Proceeds from ***the*** [~~such~~] sale shall remain with the agency and shall not be paid into the trust fund and shall not be considered for purposes of the limits established in subsection (12) of this section. The moneys shall be utilized for purposes consistent with KRS 218A.405 to 218A.460. The seizing agency shall be required to pay any bona fide perfected security interest on any vehicle so forfeited.

(12) Other provisions of law notwithstanding, the first fifty thousand dollars ($50,000) of forfeited coin or currency or of the proceeds from sale of any property forfeited pursuant to this chapter which was seized or forfeited by a single order of forfeiture, shall not be paid into the fund but ninety percent (90%) shall be paid to the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes and ten percent (10%) to the office of the Commonwealth's attorney or county attorney who has participated in the forfeiture proceeding. The moneys are intended to supplement any funds appropriated to the recipient and shall not supplant other funding of any [~~such~~] recipient. In addition, forty-five percent (45%) of all proceeds above fifty thousand dollars ($50,000) shall not be paid into the fund but shall be retained by the law enforcement agency or agencies which seized the property to be used for direct law enforcement purposes.

(13) When money or property is seized in a joint operation involving more than one (1) law enforcement agency, or prosecutorial office, the apportionment of funds to each pursuant to subsection (7)(a) of this section, or pursuant to subsection (12) of this section, shall be made among the agencies in [~~such~~] a manner [~~as~~] to reflect the degree of participation of each agency in the law enforcement effort resulting in the forfeiture, taking into account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based. The trial court shall determine the proper division and include the determination in the final order of forfeiture.

Section 81. KRS 222.210 is amended to read as follows:

The cabinet shall coordinate matters affecting alcoholism in the Commonwealth, shall establish and conduct a program for the treatment of intoxicated persons and alcoholics, including juveniles and young adults, their rehabilitation, and the prevention of alcoholism in cooperation with public and private agencies, business and industry, and shall provide technical assistance and consultation services ***when*** [~~whenever~~] required. The cabinet may adopt ***administrative*** [~~rules and~~] regulations to carry out its powers and duties under this chapter. The cabinet shall be responsible for assuring that the following services are available and shall utilize community mental health centers and existing facilities and services available within the private sector whenever possible:

(1) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of intoxicated persons, including necessary diagnostic and referral services;

(2) Medical and hospital services which are available on a twenty-four (24) hour basis and which, ***when*** [~~whenever~~] possible, are provided in existing general hospital facilities;

(3) Rehabilitation services, including family care, residential aftercare, and appropriate therapy;

(4) Inpatient psychiatric services for those alcoholics whose diagnosis reflects serious alcoholic-related mental disturbances which, ***when*** [~~whenever~~] possible, shall be conducted with services available in the cabinet; and

(5) Training programs for professional and nonprofessional workers in the field of treatment and rehabilitation of alcoholics and intoxicated persons.

The cabinet shall not grant its approval for the establishment or maintenance of a facility, pursuant to KRS 222.240, in any jail, house of correction, or institution operated by the ***Department of*** Corrections [~~Cabinet~~], unless ***the*** [~~such~~] facility meets the standards and procedures set forth in KRS 222.240.

Section 82. KRS 222.460 is amended to read as follows:

(1) As a requirement to receive state or federal funds, including Medicaid, a treatment center or program licensed as a chemical dependency treatment service pursuant to KRS 216B.040, 210.610, or this chapter shall submit an annual report to the Cabinet for Human Resources relating to treatment effectiveness.

(2) Information in the report shall include, but is not limited to, the following:

(a) The total number of alcohol and drug abuse clients admitted to treatment;

(b) The total number of referrals from the District and Circuit Courts and the ***Department of*** Corrections [~~Cabinet~~];

(c) The client's change in alcohol and other drug use patterns from admission to discharge from treatment;

(d) The client's change in employment status from admission to discharge from treatment; and

(e) The client's change in involvement with the criminal justice system from admission to discharge from treatment.

(3) All information collected pursuant to KRS 222.460 to 222.475 shall be held confidential with respect to the identity of individual clients. Access to information that identifies individual clients may be provided to qualified persons or organizations with a valid scientific interest, as determined by the secretary of human resources, who are engaged in research related to patterns of drug and alcohol use, the effectiveness of treatment, or similar studies and who agree in writing to maintain confidentiality.

Section 83. KRS 227.223 is amended to read as follows:

(1) The state fire marshal shall cooperate with the ***Department of*** Corrections [~~Cabinet~~] in the development of fire safety regulations for jails and assist in the training of jail inspectors employed by the ***Department of*** Corrections [~~Cabinet~~].

(2) Effective January 1, 1983, the ***Department of*** Corrections [~~Cabinet~~] shall possess all authority and responsibility for fire prevention and reduction of loss by fire in jails as defined in KRS 441.005.[~~; provided, however, that~~] Upon the request of the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~], the state fire marshal shall investigate the cause and circumstances of fires or explosions in jails.

Section 84. KRS 431.220 is amended to read as follows:

Every death sentence shall be executed by causing to pass through the body of the condemned a current of electricity of sufficient intensity to cause death as quickly as possible. The application of the current shall be continued until the condemned is dead. All executions of the death penalty by electrocution shall take place within the walls of the state penal institution designated by the ***Department of*** Corrections [~~Cabinet~~], and in ***an*** [~~such~~] enclosure ***that*** [~~as~~] will exclude public view thereof.

Section 85. KRS 431.240 is amended to read as follows:

(1) Unless the execution is stayed by due process of law or under authority of subsection (2) of this section, the warden of the penitentiary or his deputy shall proceed, on the day and at the place named in the judgment of conviction, to cause the condemned person to be electrocuted. The execution shall take place before sunrise on the day designated in the judgment.

(2) If the condemned person is insane or pregnant with child on the day designated for the execution, the execution shall be suspended until the condemned is restored to sanity or is delivered of child. The execution shall then take place under the warrant of the governor and at the time designated by him, unless stayed by due process of law. If execution is suspended on the ground of insanity, the ***commissioner*** [~~secretary~~] of ***the Department of*** Corrections may transfer the condemned person to the state forensic psychiatric facility operated by the ***Department of*** Corrections [~~cabinet~~] until ***the*** [~~such~~] time [~~as~~] he is restored to sanity.

(3) If the condemned person escapes from custody and is recaptured after the expiration of the date fixed for the execution, the Governor, upon receiving written notice of the recapture from the warden of the penitentiary, shall send his warrant of execution to the warden by special messenger and shall name therein the day of execution. The warden shall then proceed to the execution thereof according to the provisions of KRS 431.215 to 431.270.

(4) ***When*** [~~Whenever~~] a judgment of death has not been executed on the day appointed therefor by the court, from any cause [~~whatever~~], the Governor, by a warrant under his hand and the seal of the Commonwealth, shall fix the day of the execution, which warrant shall be obeyed by the warden of the penitentiary.

Section 86. KRS 431.250 is amended to read as follows:

The following persons, and no others, may attend an execution: The electrician and the warden of the penitentiary and his deputy or deputies and guards; the sheriff of the county in which the condemned was convicted; the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~cabinet~~] and representatives of the ***Department of*** Corrections [~~cabinet~~] designated by him; the physician and chaplain of the penitentiary; a clergyman and three (3) other persons selected by the condemned; nine (9) representatives of the news media as follows: one (1) representative from United Press International Wire Service, one (1) representative from Associated Press Wire Service, one (1) representative from Kentucky Network, Inc., three (3) representatives for radio and television media within the state***,*** and three (3) representatives for newspapers within the state. Use of audio-visual equipment by the representatives is prohibited during the execution. The ***Department of*** Corrections [~~cabinet~~] shall issue administrative regulations which govern media representation during the execution.

Section 87. KRS 431.270 is amended to read as follows:

The body of the condemned shall be delivered to any friend or relative making request for it. The expense for the return of the body to its home, not to exceed thirty dollars ($30), shall be paid out of the appropriations to the ***Department of*** Corrections [~~cabinet~~]. If no [~~such~~] request is made, the body shall be buried, and the cost of ***the*** [~~such~~] burial, not to exceed thirty dollars ($30), shall be paid out of the appropriations to the ***Department of*** Corrections [~~cabinet~~].

Section 88. KRS 439.177 is amended to read as follows:

(1) Any misdemeanant may petition the sentencing court for parole privileges.

(2) The sentencing judge shall study the record of all persons petitioning for parole and, in his discretion, may:

(a) Cause additional background or character information to be collected or reduced to writing by the ***Department of*** Corrections [~~cabinet~~];

(b) Conduct hearings on the desirability of granting parole;

(c) Impose on the parolee ***the*** [~~such~~] conditions [~~as~~] he sees fit;

(d) Order the granting of parole;

(e) Issue warrants for persons when there is reason to believe they have violated the conditions of their parole and conduct hearings on such matters;

(f) Determine the period of supervision for parolees, which period may be subject to extension or reduction;

(g) Grant final discharge to parolees.

(3) The sentencing judge shall keep a record of his acts, and shall notify the appropriate jail official of his decision relating to the persons who are or have been confined therein.

(4) ***When*** [~~Whenever~~] an order for parole is issued, it shall recite the conditions thereof, and such orders shall be transmitted to the ***Department of*** Corrections [~~cabinet~~].

(5) The period of time spent on parole shall not count as a part of the prisoner's maximum sentence except in determining the parolee's eligibility for a final discharge from parole as set out in subsection (7).

(6) Paroled prisoners shall be under the supervision of the department and subject to its decision for the duration of parole. Supervision of the parolee by the ***Department of*** Corrections [~~cabinet~~] shall cease at the time of recommitment of the prisoner to the jail as a parole violator, or at the time a final discharge from parole is granted by the sentencing judge.

(7) When any paroled prisoner has performed the obligations of his parole during his period of active parole supervision, the sentencing judge may, at the termination of ***a*** [~~such~~] period to be determined by the sentencing judge, issue a final discharge from parole to the prisoner. Unless ordered earlier by the sentencing judge, a final discharge shall be issued when the prisoner has been out of jail on parole a sufficient period of time to have been eligible for discharge from jail by maximum expiration of sentence had he not been paroled, ***if*** [~~provided~~] before this date he had not absconded from parole supervision or that a warrant for parole violation had not been issued.

(8) The prisoner convicted of a misdemeanor and released on parole under the provisions of this statute shall be subject to all reasonable ***Department of*** Corrections [~~cabinet rules and~~] regulations.

Section 89. KRS 439.179 is amended to read as follows:

(1) Any person sentenced to a jail for a misdemeanor, nonpayment of a fine or forfeiture, or contempt of court, may be granted the privilege of leaving the jail during necessary and reasonable hours for any of the following purposes:

(a) Seeking employment; or

(b) Working at his employment; or

(c) Conducting his own business or other self-employment occupation including, in the case of a woman, housekeeping and attending the needs of her family; or

(d) Attendance at an educational institution; or

(e) Medical treatment.

(2) Unless ***the*** [~~such~~] privilege is expressly granted by the court, the prisoner ***shall be*** [~~is~~] sentenced to ordinary confinement. The prisoner may petition the sentencing court for ***the*** [~~such~~] privilege at the time of sentence or thereafter, and, in the discretion of the sentencing court, may renew his petition. The sentencing court may withdraw the privilege at any time by order entered with or without notice. The jailer shall advise the court in establishing criteria in determining a prisoner's eligibility for work release.

(3) The jailer shall notify the Cabinet for Human Resources which shall endeavor to secure employment for unemployed prisoners under this section. If a prisoner is employed for wages or salary, they shall, by wage assignment, be turned over to the District Court which shall deposit the same in a trust checking account and shall keep a ledger showing the status of the account of each prisoner. ***The*** [~~Such~~] wages or salary ***shall*** [~~are~~] not ***be*** subject to garnishment of either the employer or the District Court during the prisoner's term, and shall be disbursed only as provided in this section.[~~, but~~] For tax purposes, they ***shall be*** [~~are~~] the income of the prisoner.

(4) Every prisoner gainfully employed ***shall be*** [~~is~~] liable for the cost of his board in the jail, at a reasonable amount, not to exceed ten dollars ($10) per day, established by the fiscal court. If he defaults, his privilege under this section ***shall be*** [~~is~~] automatically forfeited. All moneys shall be collected by the district court and paid to the county treasury for use on the jail as provided in KRS 441.006. The fiscal court may, by ordinance, provide that the county furnish or pay for the transportation of prisoners employed under this section to and from the place of employment and require that ***the*** [~~such~~] costs be repaid by the prisoner.

(5) Unless otherwise ordered by the sentencing court, the wages or salaries of employed prisoners shall be disbursed by the district court on a monthly basis for the following purposes and in the order stated:

(a) The board of the prisoner and transportation costs incurred by the county;

(b) Support of the prisoner's dependents, if any;

(c) Payment, either in full or ratably, of the prisoner's obligations acknowledged by him in writing or which have been reduced to judgment;

(d) The balance, if any, to the prisoner upon his discharge.

(6) The sentencing court may direct that its functions under subsections (3) or (5) or both be performed by any bonded public official. ***The*** [~~Such~~] order shall remain in force until rescinded by the District Court.

(7) The ***Department of*** Corrections [~~cabinet~~] shall, at the request of the District Judge, investigate and report on the amount necessary for the support of the prisoner's dependents, and periodically review the prisoner's progress while on leave from the jail and report its findings to the District Judge.

(8) The jailer may refuse to permit the prisoner to exercise his privilege to leave the jail as provided in subsection (1) for any breach of discipline or other violation of jail regulations for a period not to exceed five (5) days.

(9) In counties containing an urban-county form of government, the duties, responsibilities, and obligations vested herein in the ***Department of*** Corrections [~~cabinet~~] shall be performed by the adult misdemeanant probation and work release agency of the urban-county government.

Section 90. KRS 439.250 is amended to read as follows:

As used in KRS 439.250 to 439.560, unless the context requires otherwise:

(1) "Secretary" means the secretary of the ***Justice*** [~~corrections~~] cabinet;

(2) "Commissioner" means the commissioner of the Department of Corrections;

(3) "***Department*** [~~Cabinet~~]" means the ***Department of*** Corrections [~~Cabinet~~];

(4) "Deputy commissioner" means the deputy commissioner of the Division of Adult Institutions or the deputy commissioner of the Division of Community Services and Local Facilities of the Department of Corrections;

(5)[~~(3)~~] "Board" means the Parole Board created by KRS 439.320.

Section 91. KRS 439.302 is amended to read as follows:

The Commission on Correction and Community Service shall consist of the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~cabinet~~], the ***deputy*** commissioner of the ***Division*** [~~department~~] of Community Services and ***Local*** Facilities***;***[~~,~~] the ***deputy*** commissioner of the ***Division*** [~~department of~~] Adult Correctional Institutions***;***[~~,~~] the chairman of the Parole Board***;***[~~,~~] two (2) Circuit Judges designated by the Governor***;***[~~,~~] five (5) public members appointed by the Governor, these to include a psychiatrist, a professional educator, a member who is qualified to express the views of business and industry, a member who is qualified to express the views of organized labor, and a practicing attorney***;***[~~,~~] and four (4) at-large appointees. The judicial and public members shall serve for the remainder of the term of office of the Governor during whose incumbency they were appointed, unless sooner removed for cause; all other members shall serve during their terms of office. The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~cabinet~~] shall act as chairman of the commission. All public members of the commission shall receive twenty-five dollars ($25.00) per day for attending each meeting. Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

Section 92. KRS 439.304 is amended to read as follows:

(1) The commission shall meet at least every three (3) months, and ***when*** [~~whenever~~] called into session by the chairman, at the request of the Governor, of any two (2) or more members of the commission, or on his own motion.

(2) The commission shall advise the Governor and the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~cabinet~~] concerning correctional policy and programs, including particularly the following:

(a) The need for, and the development of new or specialized institutions, facilities, or programs;

(b) The need for, and the effectuation of collaboration and liaison within the ***department*** [~~cabinet~~], and between the ***department*** [~~cabinet~~] and community agencies and resources, including the bench and bar, in order to promote the readjustment and rehabilitation of offenders in institutions or under parole or probation supervision in the community;

(c) The need for, and the development of useful researches in penology, correctional treatment, criminal law, or in the disciplines relevant thereto.

Section 93. KRS 439.306 is amended to read as follows:

The commission or one (1) or more of its members may visit and inspect any state penal institution, and may inform and advise the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~cabinet~~] in regard to ***the*** [~~any such~~] institution's physical or other condition, its discipline, management, program, and its general adequacy or inadequacy. The commission or a majority of its members shall have full access to the grounds and buildings and to the books and records belonging or relating to ***the*** [~~any such~~] institution, as well as the right to subpoena witnesses, take proof*,* or hear testimony under oath relating to ***the*** [~~any such~~] institution.

Section 94. KRS 439.310 is amended to read as follows:

The ***commissioner*** [~~secretary~~], with the approval of the ***secretary and the*** Governor, shall appoint a person charged with the administration of probation and parole laws, who, with the approval of the ***commissioner*** [~~secretary~~], shall appoint a number of probation and parole officers and other employees sufficient to administer the provisions of KRS 439.250 to 439.560; but no employee shall be appointed except in the manner hereinafter provided. The person charged with the administration of probation and parole laws shall have attained at least a bachelor's degree from an accredited college*,* and*,* in addition*,* [~~thereto~~] shall be a person with training and experience in probation, parole or other related form of welfare work.

Section 95. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the ***Department of*** Corrections [~~cabinet~~], or the ***Division*** [~~department~~] of Community Services and ***Local*** Facilities, shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than ten dollars ($10) per month while on active supervision nor more than two thousand five hundred dollars ($2,500).

(b) For a misdemeanor, not less than ten dollars ($10) per month while on active supervision nor more than five hundred dollars ($500), except as provided in subsection (13) of this section.

(3) The releasing authority shall order the fee paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released as provided in KRS 533.050.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make the payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution.

In counties containing an urban county form of government, the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release agency, if it finds that any of the factors in subsection (6) of this section exist.

(6) The releasing authority shall not waive any fee unless the ***commissioner*** [~~secretary~~] of ***the Department of*** Corrections or his designee petitions the releasing authority in written form for the waiver. The ***Department of*** Corrections [~~cabinet~~] shall not petition unless:

(a) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of [~~such~~] student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. In ***that*** [~~such~~] case, the fee may be postponed until completion of education but shall be paid thereafter.

(b) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(7) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay the fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8) All sums paid by the defendant pursuant to this section shall be paid into the general fund, except as provided in subsection (13) of this section.

(9) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of release, unless the fee has been waived, reduced, or delayed as provided herein.[~~, and~~] Nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the ***Department of*** Corrections [~~cabinet~~] petitions the releasing authority to modify ***the*** [~~such~~] fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county where the defendant is supervised, except as provided in subsection (13) of this section.

(12) The ***Department of*** Corrections [~~cabinet~~] and ***the Division of Probation and Parole*** [~~office of community services~~] shall, for each person released under its supervision, keep an account of all payments made and report delinquencies to the releasing authority.

(13) In counties containing an urban-county form of government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release agency of the urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of this section. The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release agency of an urban-county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500). All sums paid by the defendant under this subsection shall be paid into the general fund of the urban-county government in lieu of the payment specified in subsection (8) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the urban county involved. The adult misdemeanant probation and work release agency of the urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk, and report delinquencies to the court.

Section 96. KRS 439.320 is amended to read as follows:

(1) The Governor shall appoint a Parole Board consisting of seven (7) members, one (1) of whom he shall name as chairman of the board. He shall make each appointment from a list of three (3) names given to him by the Commission on Correction and Community Service. Each member appointed to the board ***shall*** [~~must~~] have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine, or a combination thereof, or have served at least five (5) years previously on the Parole Board. No more than four (4) board members ***shall*** [~~may~~] be of the same political party. The board shall be attached to the ***Department of*** Corrections [~~cabinet~~] for administrative purposes only; the ***Department of*** Corrections [~~cabinet~~] shall provide ***any*** [~~such~~] clerical, stenographic, administrative, and expert staff assistance [~~as~~] the board deems necessary to carry out its duties.

(2) The chairman shall be the chief administrative officer of the board and shall be responsible for all administrative, organizational, and personnel matters of the board.

(3) The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars ($1,000) per year for his services. Their ***terms*** [~~term~~] of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term, the Governor may name a successor to serve for the remainder of the unexpired term.

(4) The organization of the board shall be determined by the chairman and a quorum of the board shall be as follows:

(a) For parole hearings, three (3) members; and

(b) For all other business, four (4) members. A decision by any three (3) member panel in a parole hearing shall be final unless any member of the full board requests that the full board hear the case, whereupon a parole hearing by not less than four (4) members of the board shall be held.

(5) The governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before [~~such~~] removal, he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten (10) days thereafter. Upon removal, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

(6) Present members of the board shall be deemed to have vacated their ***appointments*** [~~appointment~~] and successors shall be appointed as provided in subsection (3) of this section. The Governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.

Section 97. KRS 439.340 is amended to read as follows:

(1) The board may release on parole [~~such~~] persons confined in any adult state penal or correctional institution of Kentucky or sentenced felons incarcerated in county jails [~~as are~~] eligible for parole. All paroles shall issue upon order of the board duly adopted. As soon as practicable after his admission to an adult state penal or correctional institution or county jail if he is a sentenced felon, and at such intervals thereafter as it may determine, the ***Department of*** Corrections [~~Cabinet~~] shall obtain all pertinent information regarding each prisoner, except those not eligible for parole. ***The*** [~~Such~~] information shall include his criminal record, his conduct, employment, and attitude in prison, and the reports of [~~such~~] physical and mental examinations ***that*** [~~as~~] have been made. The ***Department of*** Corrections [~~Cabinet~~] shall furnish the circumstances of his offense and his previous social history to the institution and the board. The ***Department of*** Corrections [~~Cabinet~~] shall prepare a report on ***any*** [~~such~~] information [~~as~~] it obtains. It shall be the duty of the ***Department of*** Corrections [~~Cabinet~~] to supplement this report with ***any*** [~~such~~] material [~~as~~] the board may request and submit ***the*** [~~such~~] report to the board.

(2) Before granting the parole of any prisoner, the board shall consider the pertinent information regarding the prisoner and shall have him appear before it, or two (2) or more members for interview and hearing, except that the board in its discretion may request the parole board of another state confining prisoners pursuant to KRS 196.610 to interview eligible prisoners and make a parole recommendation to the board. A parole shall be ordered only for the best interest of society and not as an award of clemency, and it shall not be considered a reduction of sentence or pardon. A prisoner shall be placed on parole only when arrangements have been made for his proper employment or for his maintenance and care, and when the board believes he is able and willing to fulfill the obligations of a law abiding citizen.

(3) The board shall adopt ***administrative*** [~~rules or~~] regulations with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, or conditions to be imposed upon parolees. Regulations governing the eligibility of prisoners for parole shall be in accordance with professionally accepted ideas of correction and reform and may utilize in part objective, performance-based criteria; however, nothing herein contained shall preclude the board from utilizing its present regulations in conjunction with [~~such~~] other factors involved that would relate to the inmate's needs and the safety of the public.

(4) The board shall insure that sentenced felons confined in county jails are considered for parole within thirty (30) days of their parole eligibility date and the ***Department of*** Corrections [~~Cabinet~~] shall provide the necessary assistance and information to the board in order for it to conduct [~~such~~] timely parole reviews.

(5) In addition to or in conjunction with each hearing conducted under subsection (2) of this section for any prisoner convicted of a Class A, B, or C felony and prior to the granting of a parole to any such prisoner, the parole board shall conduct a hearing of which the following persons shall receive not less than forty-five (45) nor more than ninety (90) days' notice: the Commonwealth's attorney who shall notify the sheriff of every county and the chief of police of every city and county in which the prisoner committed any Class A, B, or C felony for which he is imprisoned, and all identified victims of ***the*** [~~such~~] crimes or the next of kin of any victim who is deceased. Notice to the Commonwealth's attorney shall be by mail to his business office. Notices received by chiefs of police and sheriffs shall be posted in a conspicuous location where police employed by the department may see it. Notices shall be posted in a manner and at a time that will allow officers to make comment thereon to the Parole Board. Notice to victims or their next of kin shall be made, for prisoners incarcerated prior to July 15, 1986, by mail to the Commonwealth's attorney who shall forward the notice promptly to the victims or their next of kin at their last known address. For prisoners incarcerated on or after July 15, 1986, notice to the victims or their next of kin shall be by mail from the Parole Board to their last known address as provided by the Commonwealth's attorney to the Parole Board at the time of incarceration of the prisoner. The notice shall include the time, date, and place of the hearing provided for in this subsection, and the name and address of a person to write ***if*** [~~in the event~~] the recipient of the notice desires to attend the hearing or to submit written comments.

(6) Persons receiving notice as provided for in subsection (5) of this section may submit comments, in person or in writing, to the board upon all issues relating to the parole of the prisoner. The board shall read and consider all [~~such~~] comments prior to making its parole decision, ***if*** [~~provided~~] they are received by the board not less than seven (7) days before the date for the hearing. The board shall retain all [~~such~~] comments in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decisions affecting the prisoner. In addition to officers listed in subsection (5) of this section, the crime victims or the next of kin of any victim who is deceased or who is disabled and cannot attend the hearing or the parent or legal guardian of any victim who is a minor ***may*** [~~shall have the right to~~] attend the hearing provided for in subsection (5) of this section and present oral and written comments upon all issues relating to the parole of the prisoner, ***if they*** [~~provided only that such persons shall~~] have advised the board, in writing received by the board not less than seven (7) days prior to the date set for the hearing, of ***their*** [~~his~~] intention to attend the hearing. The board shall receive and consider all [~~such~~] comments, shall make a record of them which it shall retain in the prisoner's permanent Parole Board file, and shall consider them in conjunction with any subsequent parole decision affecting the prisoner. Persons appearing before the Parole Board pursuant to this subsection may elect to make their presentations outside of the presence of the prisoner.

(7) Any hearing provided for in subsections (5) and (6) of this section shall be open to the public unless the persons having a right to appear before the board as specified in those subsections request closure of [~~such~~] hearing for reasons of personal safety, in which event the hearing shall be closed.

(8) Except as specifically set forth in this section, nothing in this section shall be deemed to expand or abridge any existing rights of persons to contact and communicate with the Parole Board or any of its members, agents, or employees.

(9) The unintentional failure by the Parole Board, sheriff, chief of police, or any of its members, agents, or employees or by a Commonwealth's attorney or any of his agents or employees to comply with any of the provisions of subsections (5), (6), and (7) of this section shall not affect the validity of any parole decision or give rise to any right or cause of action by the crime victim, the prisoner, or any other person.

(10) No eligible sexual offender within the meaning of KRS 197.400 to 197.440 shall be granted parole unless he has successfully completed the sexual offender treatment program.

(11) Any prisoner who is granted parole after completion of the sexual offender treatment program shall be required, as a condition of his parole, to participate in regular treatment in a mental health program approved or operated by the ***Department of*** Corrections [~~Cabinet~~].

(12) ***When*** [~~Whenever~~] an order for parole is issued, it shall recite the conditions thereof.

Section 98. KRS 439.500 is amended to read as follows:

(1) No probation or parole officer of the ***department*** [~~cabinet~~] shall:

(a) Use his office to influence elections, or to influence the political action of any person;

(b) Serve as a member of the campaign committee of any political party;

(c) Interfere with or participate in the preparation for any election, or the conduct thereof at the polling place, or with the election officers while they are performing their duties;

(d) Be in any manner concerned in demanding, soliciting, or receiving any assessments, subscriptions, or contributions, whether voluntary or involuntary, for any political party or candidate.

(2) It shall be unlawful for any person to be in any way concerned with demanding or soliciting assessments, subscriptions, or contributions for any political party or candidate from any member or employee of the ***Department of*** Corrections [~~cabinet~~].

Section 99. KRS 439.540 is amended to read as follows:

The ***department*** [~~cabinet~~], with the written approval of ***the secretary and*** the Governor, may:

(1) Enter into an agreement with the governing body of any county or city of this state for their payment of part of the costs of the performance of services within ***the*** [~~said~~] county or city by the ***department*** [~~cabinet~~] relating to any parole or probation;

(2) Accept from the United States of America or any of its agencies ***the*** [~~such~~] advisory services, funds, equipment, and supplies [~~as may be~~] available to this state for any of the purposes contemplated by KRS 439.250 to 439.560;

(3) Enter into [~~such~~] contracts and agreements with the United States or any of its agencies, or with any independent or private agency as [~~may be~~] necessary, proper, and convenient, not contrary to the laws of this state.

Section 100. KRS 439.550 is amended to read as follows:

(1) If any District Court places a person on probation following a conviction of crime, either upon verdict or plea, the court may direct that ***the*** [~~such~~] defendant be under the supervision of the ***Department of*** Corrections [~~cabinet~~].

(2) In counties containing an urban-county form of government, the urban-county council shall provide for supervision of a person placed on probation or work release by the District Court of ***the*** [~~said~~] county following a conviction of crime, either upon a verdict or plea, under the supervision of an adult misdemeanant probation and work release agency of the urban-county government. The employees of ***the*** [~~said~~] agency shall be appointed by the mayor of the urban-county government and shall serve at his pleasure but shall be subject to the direction and control of the judges of the District Court in the performance of their duties. There shall be ***the*** [~~such~~] number of employees of said agency, including clerical personnel, as [~~is reasonably~~] necessary for the operation of ***the*** [~~said~~] agency, and they shall receive reasonable salaries to be fixed by the urban-county council which salaries shall be paid out of the urban-county treasury.

Section 101. KRS 439.580 is amended to read as follows:

As used in KRS 439.590 to 439.630, unless the context otherwise requires:

(1) "Secretary" means the secretary of the ***Justice*** [~~Corrections~~] Cabinet;

(2) ***"Commissioner" means the commissioner of the Department of Corrections;***

(3) "***Department*** [~~Cabinet~~]" means the ***Department of*** Corrections [~~cabinet~~];

(4)[~~(3)~~] "Facility" means the community correctional center; and

(5)[~~(4)~~] "Relative" means a spouse***;***[~~,~~] child***,*** [~~(~~]including step-child, adopted child or child as to whom the prisoner, though not a biological parent, has acted in the place of a parent***;***[~~),~~] parent [~~(~~]including a person who, though not a biological parent, has acted in the place of a parent***;***[~~),~~] brother***;*** [~~or~~] sister***;*** or grandparents.

Section 102. KRS 439.590 is amended to read as follows:

The ***Department of*** Corrections [~~cabinet~~] may establish community residential correctional centers at locations approved by the legislative body of the area where located as places of confinement for convicted felons. The ***commissioner*** [~~secretary~~], or ***a*** [~~such~~] person ***the commissioner*** [~~as said secretary~~] delegates, may, at his own discretion, transfer prisoners to a residential center from any correctional institution for the purpose of facilitating the rehabilitation of the prisoner except as set out in KRS 439.620.

Section 103. KRS 439.600 is amended to read as follows:

(1) The ***commissioner*** [~~secretary~~], or ***a*** [~~such~~] person ***he*** [~~as said secretary~~] delegates, may extend the limits of the place of confinement of a prisoner ***if*** [~~as to whom~~] there is reasonable cause to believe ***the prisoner*** will honor his trust, by authorizing him, under prescribed conditions, to:

(a) Visit specifically designated places within the boundaries of Kentucky for a period not to exceed seven (7) days and return to the same institution or facility. An extension of limits may be granted only to permit a visit to a dying relative, attendance at the funeral of a relative, the contacting of prospective employers, or for any other compelling reason consistent with the public interest, or to promote the welfare and rehabilitation of the inmate; or

(b) Be transferred to a medical facility outside the correctional facility for ***a*** [~~such~~] period of time as [~~is~~] required to receive necessary medical services not available in the institution; or

(c) Participate in an educational training program in the community on a voluntary basis while continuing as a prisoner of the institution or facility to which he is committed or confined; or

(d) To do work at paid employment in the community on a voluntary basis returning to the institution or to the facility at night.

(2) A prisoner authorized to work at paid employment in the community under the provision of this subsection shall surrender to the ***commissioner*** [~~secretary~~] of the ***department*** [~~corrections cabinet~~], or his designate, his earnings, less standard payroll deductions required by law. After deducting from the earning of each prisoner an amount determined to be the cost of the prisoner's keep and confinement, which sum shall be deposited in the Kentucky State Treasury as trust and agency receipts at the place of confinement of the inmate, the ***commissioner*** [~~secretary~~] of the ***department*** [~~corrections cabinet~~], or his designate shall:

(a) Allow the prisoner to draw from the balance a reasonable sum to cover his incidental expenses;

(b) Retain to the prisoner's credit ***an*** [~~such~~] amount [~~as~~] deemed necessary to accumulate a reasonable sum to be paid to him on his release from prison;

(c) Cause to be paid any additional balance as is needed for the support of the prisoner's dependents.

Section 104. KRS 439.620 is amended to read as follows:

Before securing employment for any prisoner under the provisions of KRS 439.600, the ***commissioner*** [~~secretary~~] shall determine:

(1) That ***the*** [~~such~~] paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(2) That the rates of pay or other conditions of employment will not be less than those paid or provided for work of similar nature in the locality in which the work is performed.

Section 105. KRS 439.630 is amended to read as follows:

The authority conferred upon the ***commissioner*** [~~secretary~~], or ***the*** [~~such~~] person ***the commissioner*** [~~as said secretary~~] delegates, to extend the limits of confinement of a prisoner or to grant furloughs by KRS 439.580 to 439.630, extends to all persons committed to any correctional institution or facility.

Section 106. KRS 439.640 is amended to read as follows:

(1) The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~cabinet~~] may, during the last ninety (90) days of confinement of an inmate committed to a correctional facility maintained and operated by the ***department*** [~~cabinet~~], permit an inmate to participate in a vocational training program in the community on a voluntary basis. ***The*** [~~Such~~] vocational training program shall be for the express purpose of permitting

the inmate to improve vocational skills to assist the inmate to secure permanent employment prior to release by the ***department*** [~~cabinet~~]. The inmate shall be eligible to receive compensation while participating in a vocational training program subject to the discharge of his regular financial obligations, to include standard payroll withholding, maintenance, support of dependents, and restitution.

(2) The ***commissioner*** [~~secretary~~] shall recommend ***administrative*** [~~reasonable rules and~~] regulations to implement the provisions of the vocational training program.

Section 107. KRS 439.990 is amended to read as follows:

(1) Any warden or other officer of any prison or any peace officer who wilfully fails or refuses to execute or obey the orders of the ***department*** [~~cabinet~~], one ***(1)*** of its divisions, or the board, under any provision of KRS 439.250 to 439.560, shall be fined not less than twenty-five dollars ($25) nor more than two hundred dollars ($200).

(2) Any commonwealth's attorney who wilfully violates KRS 439.370 shall be fined one hundred dollars ($100).

(3) Any person who wilfully violates any of the provisions of KRS 439.500 or 439.510 shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding five hundred dollars ($500) or imprisonment not exceeding one (1) year, or both. It shall be the duty of the ***commissioner*** [~~secretary~~] to dismiss from office or employment any officer or other employee ***of the department*** [~~thereof who shall be~~] convicted for violating any of the provisions of KRS 439.500.

Section 108. KRS 439.346 is amended to read as follows:

During the period of his parole, the prisoner shall be amenable to the orders of the board and the ***department*** [~~cabinet~~].

Section 109. KRS 439.348 is amended to read as follows:

Paroled prisoners shall be under the supervision of the ***department*** [~~cabinet~~] and subject to its direction for the duration of parole. Supervision of the parolee by the ***department*** [~~cabinet~~] shall cease at the time of recommitment of the prisoner to prison as a parole violator, or at the time a final discharge from parole is granted to the parolee by the board.

Section 110. KRS 439.430 is amended to read as follows:

(1) Any parole officer having reason to believe that a parolee has violated the terms of his release may arrest ***the parolee*** [~~such person~~] without a warrant or may deputize any other peace officer to do so by giving him a written statement setting forth that the parolee, in the judgment of the parole officer, has violated the conditions of his release. ***The*** [~~Such~~] written statement delivered with the parolee by the arresting officer to the official in charge of the station house, jail, workhouse or other place of detention, shall be sufficient warrant for the detention of the parolee. The parole officer who arrests or causes the arrest of the prisoner shall notify the ***commissioner or his designee*** [~~secretary~~] at once of the arrest and detention of the parolee, and shall submit in writing a report showing in what manner there has been a violation of the conditions of release. Thereupon, if the ***commissioner or his designee*** [~~secretary~~] believes the parolee should be returned to prison, the ***commissioner or his designee*** [~~secretary~~] at once shall submit his recommendations to the board, and, if the board approves, it shall issue a warrant upon which the releasee shall be returned to prison, otherwise the prisoner shall be released upon the order of the ***commissioner or his designee*** [~~secretary~~].

(2) A written statement, approved by the ***commissioner or his designee*** [~~secretary~~], by a parole officer, and filed with the board setting forth that the parolee in the judgment of ***the*** [~~such~~] officer has violated the condition of his release, shall be sufficient cause for the board, in its discretion, to issue a warrant for the arrest of the parolee, or for his return to prison.

(3) A prisoner for whose return a warrant has been issued by the board, shall be deemed a fugitive from justice or to have fled from justice. If it shall appear he has violated the provisions of his release, [~~then~~] the time from the issuing of ***the*** [~~such~~] warrant to the date of his arrest shall not be counted as any part of the time to be served in determining his final discharge eligibility date from parole if the board in its discretion so orders.

(4) The Parole Board may at its discretion issue a warrant for any parolee when in ***its*** [~~their~~] judgment the condition of release has been violated.

Section 111. KRS 439.470 is amended to read as follows:

(1) The ***commissioner*** [~~secretary~~] shall have the power and duty to make rules for the conduct of persons [~~heretofore~~ ~~or~~ ~~hereafter~~] placed on probation or parole, except the ***commissioner*** [~~secretary~~] shall not make any rule which conflicts with the conditions of probation imposed by the court or conditions of release imposed by the board.

(2) The ***commissioner, or his designee*** [~~executive~~ ~~director~~ ~~of~~ ~~the~~ ~~office~~ ~~of~~ ~~community~~ ~~services~~] shall:

(a) Be responsible for ***any*** [~~such~~] reports of investigation and supervision as may be requested by the board or the courts;

(b) Divide the state into districts and assign probation and parole officers to serve in the various districts and courts;

(c) Direct the work of ***the*** [~~such~~] officers and other employees assigned to him;

(d) Formulate methods of investigation, supervision, record keeping, and reports;

(e) Conduct training courses for the staff;

(f) Negotiate, with the approval of the ***commissioner*** [~~secretary~~], with public or private groups or institutions for further training of employees and authorize the expenditure of funds ***for that purpose*** [~~therefor~~] when needed;

(g) Develop policies on probation and parole work in the light of other welfare administration policies.

Section 112. KRS 439.480 is amended to read as follows:

Probation and parole officers shall:

(1) Investigate all cases referred to them for investigation by the ***commissioner*** [~~secretary~~] or by any court in which they are authorized to serve;

(2) Furnish to each person released under their supervision a written statement of the conditions of probation or parole and instruct him regarding ***the conditions*** [~~same~~];

(3) Keep informed concerning the conduct and conditions of each person under their supervision and use all suitable methods to aid and encourage ***them*** [~~such~~ ~~persons~~] to bring about improvement in their conduct and condition;

(4) Keep detailed records of their work;

(5) Collect and disburse all moneys in accordance with the orders of the commissioner, board, or court;

(6) Keep accurate and complete accounts of all moneys received and disbursed in accordance with orders of the commissioner, board, or court, and give receipts therefor;

(7) Make ***the*** [~~such~~] reports in writing [~~as~~] the court or commissioner may require;

(8) Coordinate their work with that of other social agencies and file identifying information regarding their cases with any social service index or exchange operation in the area to which they are assigned.

Section 113. KRS 441.005 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Jail" means county jails and correctional or detention facilities, including correctional facilities defined in KRS 67B.020 and juvenile detention facilities, operated by and under the supervision of any political subdivision.

(2) "Holdover" means any jail housing prisoners for a maximum period of ninety-six (96) continuous hours and excluding [~~such~~] times when a prisoner is released for a minimum of seven (7) hours for the purpose of working at his employment, attending an educational institution, or conducting other business pursuant to a court order, or when a prisoner is released for in court proceedings.

(3) "Prisoner" means any person confined in jail pursuant to any code, ordinance, law, or statute of any unit of government and who is:

(a) Charged with or convicted of an offense; or

(b) Held for extradition or as a material witness; or

(c) Confined for any other reason.

(4) "Unit of government" means that unit of government including the United States government whose law, statute, ordinance, or code a prisoner is charged with violating. ***If*** [~~In the event of~~] a person ***is*** imprisoned for contempt of court, the state shall be deemed the responsible unit of government.

(5) "***Department*** [~~Cabinet~~]" means the ***Department of*** Corrections [~~cabinet~~].

(6) "Jail personnel" means deputy jailers, matrons, cooks and other food service personnel, and other jail employees involved in the supervision, custody, care, or treatment of prisoners in jails but does not include maintenance or clerical personnel.

(7) "Regional jail" means a jail that may house prisoners for up to one (1) year and which is:

(a) Owned and operated by one (1) county and, on a regular basis, holds prisoners for another county or for the state; or

(b) Owned and operated by two (2) or more counties through a regional jail authority as provided in KRS 441.800.

(8) "Commissioner" means the Commissioner of the Department of Corrections.

Section 114. KRS 441.055 is amended to read as follows:

(1) The ***department*** [~~cabinet~~] shall:

(a) By January 1, 1983, adopt the recommendations of the Jail Standards Commission created pursuant to Executive Order number 81-1026 and promulgate regulations pursuant to KRS Chapter 13A establishing minimum standards for jails. ***The*** [~~Such~~] standards shall include, but not be limited to, rules governing the following areas:

1. Health and safety conditions;

2. Fire safety;

3. Jail operations, recordkeeping, and administration;

4. Curriculum of basic and continuing annual training for jailers and jail personnel;

5. Custody, care, and treatment of prisoners;

6. Medical care; and

7. Jail equipment, renovation, and construction.

(b) Develop a jail standards review process, which shall include the participation of persons knowledgeable of jail operations to review and amend the standards as necessary.

(c) Provide technical assistance and consultation to local governments in order to facilitate compliance with standards.

(2) The ***department*** [~~cabinet~~] may establish classifications of jails based on the maximum permissible period of incarceration or other criteria and promulgate standards for each class of jail.

Section 115. KRS 441.057 is amended to read as follows:

On or before July 1, 1988, the ***Department of*** Corrections [~~cabinet~~] shall issue and enforce administrative regulations to govern at least the following aspects of the operation of juvenile holding facilities:

(1) Administration;

(2) Personnel;

(3) Training and staff development;

(4) Recordkeeping;

(5) Physical plant;

(6) Security and control;

(7) Safety and emergency procedures;

(8) Sanitation and hygiene;

(9) Medical and health services;

(10) Food services;

(11) Intake and classification;

(12) Programs and services;

(13) Residents' rights;

(14) Rules and discipline;

(15) Admission procedures;

(16) Communication, including mail, visitation, and telephone;

(17) Release preparation and transfer programs; and

(18) Volunteer involvement.

Section 116. KRS 441.064 is amended to read as follows:

(1) The ***department*** [~~cabinet~~] shall employ ***the*** [~~such~~] jail consultants, inspectors, and other employees [~~as are~~] necessary to administer and enforce the provisions of KRS 441.055 to 441.075.

(2) The ***department*** [~~cabinet~~] shall inspect each jail biannually and may inspect jails more frequently.

(3) The ***department*** [~~cabinet~~] shall be granted access at any reasonable time to any jail facility or part of any jail facility and shall be granted access to all books, records, and data pertaining to any jail which the ***department*** [~~cabinet~~] deems necessary for the administration and enforcement of the provisions of KRS 441.055 to 441.075.

(4) The ***department*** [~~cabinet~~] shall submit an annual written report of the findings of its inspections and the condition of the jail to the jailer and the fiscal court.

Section 117. KRS 441.075 is amended to read as follows:

(1) ***When*** [~~Whenever~~] the ***department*** [~~cabinet~~] finds that a violation of its regulations, or the laws, or other state regulations pertaining to the protection of persons and property, exists in any jail, the ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~], or his designee, shall order that the violation be corrected immediately.

(2) In order to enforce an order made pursuant to subsection (1) of this section, the ***commissioner*** [~~secretary~~] may:

(a) Order the jail or portions thereof to be vacated and closed until the violation is eliminated.

(b) Order the jail to cease to house certain classes of prisoners or limit the length of time prisoners or certain classes of prisoners may be housed in the jail.

(c) Order the state contribution made pursuant to KRS 441.206 to be used, in whole or in part, to contract with another county for the incarceration of prisoners.

(3) An order issued under this section shall be in writing, incorporating the findings of the ***department*** [~~cabinet~~] and other agencies, if appropriate, and shall be delivered or mailed by certified mail, return receipt requested, to the county jailer and county judge/executive within twenty-four (24) hours of the issuance of ***the*** [~~said~~] order. The county jailer or county judge/executive may, within seventy-two (72) hours of receipt of ***the*** [~~said~~] notification, request in writing a public hearing before the ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~] or his designee on the matters covered by ***the*** [~~said~~] order. Upon the hearing, the ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~] or his designee may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers. The ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~] or his designee may issue, modify, or repeal the order at the conclusion of the hearing.

Section 118. KRS 441.085 is amended to read as follows:

(1) No person responsible for the supervision or maintenance of a jail shall knowingly cause or permit ***the*** [~~such a~~] facility to be operated in violation of the regulations and laws of this state pertaining to the health, safety, [~~and~~] security, and operation of jails.

(2) When the ***department*** [~~cabinet~~], pursuant to KRS 441.075, orders a county jailer, if it is determined he is responsible, or the fiscal court, to correct or eliminate a violation of any state regulation or law pertaining to the operations and maintenance of jails and the county jailer or fiscal court does not take corrective action to the satisfaction of the ***department*** [~~cabinet~~] within the time specified in the ***department's*** [~~cabinet's~~] order, [~~then~~] the ***commissioner*** [~~secretary~~] of the ***department*** [~~cabinet~~] or his designee may request the Franklin County Circuit Court to enforce the orders of the ***department*** [~~cabinet~~]. Any person who refuses to obey the orders of the court shall be held in civil contempt.

Section 119. KRS 441.095 is amended to read as follows:

Appeals from any order issued pursuant to KRS 441.055 to 441.065 shall be granted as a matter of right, and shall be taken to the Franklin County Circuit Court within thirty (30) days from the date the order is issued by the ***department*** [~~cabinet~~].

Section 120. KRS 441.105 is amended to read as follows:

The jailer shall:

(1) Submit a quarterly report to the fiscal court concerning the physical condition of the jail, the number of jail personnel and personnel needs and other matters requested by the fiscal court.

(2) Submit a monthly report to the ***department*** [~~cabinet~~], on forms supplied by the ***department*** [~~cabinet~~], containing but not limited to, the following information on each prisoner:

(a) The unit of government whose law the prisoner is charged with violating, the statute or ordinance the prisoner is charged with violating and whether the charge is a felony or misdemeanor;

(b) The status of the prisoner, whether pending trial or post conviction;

(c) The age and sex of the prisoner; and

(d) The county responsible for the incarceration of the prisoner.

Section 121. KRS 441.115 is amended to read as follows:

(1) For the purpose of raising the level of competence of jailers and jail personnel, the ***department*** [~~cabinet~~] shall maintain a jail staff training program to provide training for jailers and jail personnel consistent with the standards promulgated pursuant to KRS 441.055 and shall keep records of jailers and jail personnel who satisfactorily complete basic and annual continuing education. The training program shall include training on the human immunodeficiency virus infection and acquired immunodeficiency syndrome approved by the Cabinet for Human Resources. A curriculum advisory committee composed of jailers, their representatives and recognized professionals in the field of jail administration shall advise the ***department*** [~~cabinet~~] concerning the training needs of jailers and jail personnel. The jail staff training program shall be directed and staffed, in coordination with the governmental services center at Kentucky State University, by knowledgeable persons who have sufficient experience, training, and education in jail operations. The ***department*** [~~corrections cabinet~~] shall not charge a fee for training jailers, their deputies, or jailers-elect.

(2) Beginning in August, 1982, each jailer shall receive an expense allowance to help defray the costs of his participation in the jail staff training program. The expense allowance shall be in the amount of three hundred dollars ($300) per month payable out of the State Treasury. Expense allowance payments shall be discontinued if the jailer fails to satisfactorily complete annual continuing training. Expense allowance payments shall be resumed following a discontinuance for failure to satisfactorily complete basic or annual training only upon the jailer's satisfactory completion of ***the*** [~~such~~] training.

(3) The allowance authorized in subsections (2) and (4) of this section shall be considered as operating expenses of the jailer's office and shall not be considered as part of his compensation. Jailers shall not be required to keep records verifying the expenditures from the allowance provided by the state.

(4) In order to receive the expense allowance for their first year in office, jailers who have been elected to [~~said~~] office for the first time, shall, before taking office, successfully complete a training program designed for new jailers and conducted by the personnel of the jail staff training program. This provision shall not apply if the jailer-elect is ill and unable to complete ***the*** [~~such~~] training before taking office. In such cases, the jailer-elect shall successfully complete a new jailer training program during his first year in office in order to receive the expense allowance. The county or urban-county government in which the jailer-elect serves shall pay out of the jail budget, once he takes office, all necessary and reasonable travel expenses incurred by the jailer-elect in attending the new jailer training program.

(5) All jailers shall successfully complete the training required. If a jailer does not successfully complete the required training within the time specified, he shall not receive the expense allowance specified in subsection (2) of this section until he successfully completes the required training.

Section 122. KRS 441.206 is amended to read as follows:

(1) For the care and maintenance of prisoners charged with or convicted of violations of state law, each county shall receive a contribution from the State Treasury in an amount equal to that paid to the county pursuant to this section in fiscal year 1983-84. Any additional moneys appropriated for county jails shall be allocated on the basis of a formula comprised of the following factors:

(a) Sixty percent (60%) of the allocation shall be based on the amount of the 1983-84 funding formula each county received;

(b) Ten percent (10%) of the allocation shall be based on each county's comparative ranking of median household income in inverse order, as determined by the 1980 federal census of population; and

(c) Thirty percent (30%) of the allocation shall be based on the proportion of each county's age at risk population (18-34) to the state total, as determined by the 1980 federal census of population.

(2) Payments of the state contribution for jail operating expenses shall be made monthly by the ***Department of*** Corrections [~~Cabinet~~] to the county treasurer. The election by a county to close its jail and to contract with another county for the incarceration of prisoners, as permitted by KRS 441.025, shall not affect the state contribution provided for in subsection (1) of this section.

(3) All state funds paid to a county under this section, any funds paid to a county by the United States government, a city, or another county for the incarceration of prisoners, and any interest earned on ***the*** [~~such~~] funds shall be expended on the incarceration of prisoners, as provided in KRS 441.025. Any funds paid under subsection (1) of this section and any interest earned on ***the*** [~~such~~] funds shall be expended on the incarceration of prisoners, in accordance with regulations promulgated pursuant to KRS 441.055, within twelve (12) months of the close of the fiscal year in which ***the*** [~~such~~] funds were received. Any funds received by a county under subsection (1) of this section that are not expended for this purpose shall be returned to the State Treasury.

(4) [~~In no event shall~~] A county ***shall not*** receive less than twenty-four thousand dollars ($24,000) pursuant to this section from the State Treasury for the care and maintenance of prisoners charged with or convicted of violations of state law.

Section 123. KRS 441.215 is amended to read as follows:

(1) By April 1 of each year, the county judge/executive, county treasurer and jailer shall prepare and submit to the fiscal court a proposed line item jail budget and an estimate of revenues for jail operations from federal, state, and local sources. The proposed jail budget and estimate of revenues shall be included in the proposed county budget and investigated by the fiscal court as provided in KRS 68.240.

(2) The state local finance officer shall supervise and direct the form and classifications of the line item jail budget and estimate of jail revenues.

(3) The fiscal court shall consult with the jailer prior to any amendment of the jail budget. The fiscal court shall possess sole authority to transfer funds between line items.

(4) If, in the opinion of the jailer, the jail budget as proposed or as amended by the fiscal court, fails to adequately provide for the safe and secure operation of the jail or the care of prisoners, the jailer shall submit a written statement of ***his*** [~~such~~] concerns along with any available documentation, to the fiscal court and to the ***Department of*** Corrections [~~Cabinet~~].

Section 124. KRS 441.420 is amended to read as follows:

(1) No political subdivision of this Commonwealth, or no combination of [~~such~~] subdivisions, shall build a new jail unless the facility meets the approval or complies with the standards and regulations of the ***department*** [~~cabinet~~] promulgated pursuant to KRS 441.055.

(2) Final authority for approval of plans for the construction of a jail, or an addition or renovation of a jail shall rest with the ***department's*** [~~cabinet's~~] jail consultants.

Section 125. KRS 441.430 is amended to read as follows:

(1) Any political subdivision, or combination of [~~such~~] subdivision, desiring to build a jail shall make application, in writing, for approval of the plans for such jail not less than ***ninety (90)*** days before the advertising for bids for construction of the facility, or if bids are not to be let, ***ninety (90)*** days before the construction commences.

(2) The ***department's*** [~~cabinet's~~] jail consultants shall review the plans and within ***thirty (30)*** days render a decision as to whether the plans are approved. If the plans are not approved, [~~then~~] construction shall not commence until the requisite approval is obtained.

Section 126. KRS 441.440 is amended to read as follows:

All construction of jails pursuant to approved plans shall be done as provided under those plans and no alterations to the plans or construction shall be made unless prior approval is obtained from the ***department's*** [~~cabinet's~~] jail consultants.

Section 127. KRS 441.550 is amended to read as follows:

(1) The expense of keeping and dieting a prisoner transferred to the penitentiary or reformatory pursuant to KRS 441.540 shall be borne by the unit of government.

(2) The unit of government shall pay the expenses directly to the ***Department of*** Corrections [~~Cabinet~~].

(3) "Expenses" shall mean the fee set by the ***Department of*** Corrections [~~Cabinet~~].

Section 128. KRS 441.615 is amended to read as follows:

(1) There is created and established within the Finance and Administration Cabinet a Kentucky Local Correctional Facilities Construction Authority, composed of ten (10) members who shall be:

(a) The secretary of the Finance and Administration Cabinet, or his designee;

(b) The ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~], or his designee;

(c) The president of the Kentucky Jailers Association, or his designee;

(d) The president of the Kentucky County Judges/Executive Association, or his designee;

(e) The president of the Kentucky Association of Counties, or his designee;

(f) The president of the Kentucky Magistrates and Commissioners Association, or his designee;

(g) Two (2) citizen members appointed by the Governor; and

(h) Two (2) members of the General Assembly appointed by the Governor.

(2) The ex officio members shall serve for the term of their respective office. The legislative members of the authority shall serve at the pleasure of the Governor.

(3) Citizen members shall begin their terms on August 1, 1982, and shall be appointed for a term of four (4) years; however, in making initial appointments, the Governor shall appoint one (1) member for a term of two (2) years, and one (1) member for a term of three (3) years.

(4) Vacancies occurring in the term of any member shall be filled in the same manner as the original appointment.

(5) The ten (10) members of this authority and their successors are a body corporate and politic constituting a public corporation and governmental agency and instrumentality of the Commonwealth, with perpetual succession and with power in that name to contract and be contracted with, to acquire and convey property, to sue and be sued, to have and use a corporate seal, and to exercise all of the usual powers of corporations not inconsistent with specifically enumerated powers.

(6) The members of the authority shall receive no compensation for their services, but are entitled to reimbursement for all reasonable expenses necessary and incidental to the performance of their duties and function as members of this authority.

(7) The chairman of the authority shall be the secretary of finance. The members of the authority shall elect a vice-chairman and secretary from their membership.

(8) The secretary of finance shall designate an employee of his cabinet to serve as treasurer of the authority. The treasurer shall give bond to the authority for a faithful accounting for all funds coming into his custody, in such amount as the authority may prescribe, drawn upon a surety company qualified to do business in the Commonwealth, the premium [~~therefor~~] to be paid by the Commonwealth.

(9) The authority shall establish and maintain an office and the secretary of the authority shall maintain [~~therein~~] complete records of the authority's actions and proceedings, as public records open to inspection. The Finance and Administration Cabinet is directed and authorized to provide ***any*** [~~such~~] funds, staff assistants, facilities, and materials as may be required by the authority in the conduct of its duties and functions. The secretary of finance may require the ***Department of*** Corrections [~~cabinet~~] to share in the expenses incurred by the Finance and Administration Cabinet in maintaining and operating offices of the authority.

Section 129. KRS 441.630 is amended to read as follows:

If the authority deems it suitable, feasible, necessary, or expedient that any project or projects be financed or refinanced and constructed by the authority, the authority may make one (1) or more written agreements in which the parties may include provisions as to any of the following:

(1) Identify the project to be financed by the authority, setting forth specifications and design of ***the*** [~~such~~] facilities to be constructed, reconstructed, improved, or repaired, and any other information which is deemed necessary and proper for the development of the project;

(2) Set forth what portions, if any, of the cost of the project have been or shall thereafter be contributed by the authority from the funds and other resources available to it during the then current biennium and not previously obligated.[~~, provided that~~] The authority's contribution from its funds, [~~(~~]excluding rentals received under leases made by the authority and any contribution, grant, or gift made to the authority by a local government, person, or entity other than the state, for the use and benefit of ***the*** [~~such~~] project,[~~)~~] shall not exceed ninety percent (90%) of ***the*** [~~such~~] cost;

(3) Set forth agreements for planning, design, acquisition of property, soliciting construction bids, awarding construction contracts, issuing of work orders, and [~~such~~] other steps [~~as may be~~] necessary or incidental to the construction of the project, and authorizing and selling bonds for the project;

(4) Agree that upon completion of the project the lessee will continuously pay all of the cost of repairing, maintaining, and operating the project;

(5) Agree that upon the happening of stated events and the performance of stated conditions not inconsistent with law, the authority shall convey the project to the lessee;

(6) Set forth the terms and provisions of lease or proposed conveyance to be entered into by and between the authority and any local government, including the requirement that all new jail construction projects receiving any authority funding shall provide an agreed upon number of beds for state prisoners at a rate set by the ***commissioner*** [~~secretary~~] of the ***Department of*** Corrections [~~Cabinet~~] but which in no case shall be less than seventy-five percent (75%) of the actual daily cost of maintaining a prisoner;

(7) Agree that upon determination of the amount of bonds to be issued by the authority for the project and the interest rate or rates the bonds are to bear, and prior to the delivery of any bonds to the purchaser [~~thereof~~], the rental to be paid during the term of the lease and each term for which the lease may be renewed shall be established according to a method of computation set forth [~~therein and~~] in the proposed lease, and that the authority and lessee, each by authorized persons, shall execute ***the*** [~~such~~] lease and file the original or a signed counterpart [~~thereof~~] in the office of the authority, and the Secretary of State of the Commonwealth;

(8) Agree to establish any method of interim financing by the authority during the construction of any project, with borrowed funds from any bank, trust company, or banking institution, ***the*** [~~such~~] funds to be amortized from money obtained through the sale of revenue bonds before, during, or at completion of the construction of such project or projects; and

(9) Agree to establish guidelines for the construction, reconstruction, improvement, or repair of projects determined by the authority to qualify for grants from the authority.

Section 130. KRS 500.080 is amended to read as follows:

As used in the Kentucky Penal Code, unless the context otherwise requires:

(1) "Actor" means any natural person and, where relevant, a corporation or an unincorporated association;

(2) "Crime" means a misdemeanor or a felony;

(3) "Dangerous instrument" means any instrument, including parts of the human body when a serious physical injury is a direct result of the use of that part of the human body, article, or substance which, under the circumstances in which it is used, attempted to be used, or threatened to be used, is readily capable of causing death or serious physical injury;

(4) "Deadly weapon" means any weapon:

(a) Any weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged;

(b) Any knife other than an ordinary pocket knife or hunting knife;

(c) Billy, nightstick, or club;

(d) Blackjack or slapjack;

(e) Nunchaku karate sticks;

(f) Shuriken or death star; or

(g) Artificial knuckles made from metal, plastic, or other similar hard material;

(5) "Felony" means an offense for which a sentence to a term of imprisonment of at least one (1) year in the custody of the ***Department of*** Corrections [~~Cabinet~~] may be imposed;

(6) "Government" means the United States, any state, county, municipality, or other political unit, or any department, agency, or subdivision of any of the foregoing, or any corporation or other association carrying out the functions of government;

(7) "He" means any natural person and, where relevant, a corporation or an unincorporated association;

(8) "Law" includes statutes, ordinances, and properly adopted regulatory provisions. Unless the context otherwise clearly requires, "law" also includes the common law;

(9) "Minor" means any person who has not reached the age of majority as defined in KRS 2.015;

(10) "Misdemeanor" means an offense, other than a traffic infraction, for which a sentence to a term of imprisonment of not more than twelve (12) months can be imposed;

(11) "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law, or ordinance of a political subdivision of this state or by any law, order, rule, or regulation of any governmental instrumentality authorized by law to adopt the same;

(12) "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government, or a governmental authority;

(13) "Physical injury" means substantial physical pain or any impairment of physical condition;

(14) "Possession" means to have actual physical possession or otherwise to exercise actual dominion or control over a tangible object;

(15) "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(16) "Unlawful" means contrary to law or, where the context so requires, not permitted by law. It does not mean wrongful or immoral; and

(17) "Violation" means an offense, other than a traffic infraction, for which a sentence to a fine only can be imposed.

Section 131. KRS 504.060 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "***Department*** [~~Cabinet~~]" means the ***Department of*** Corrections [~~Cabinet~~];

(2) "Forensic psychiatric facility" means a mental institution or facility, or part thereof, designated by the secretary of the Cabinet for Human Resources for the purpose and function of providing inpatient evaluation, care, and treatment for mentally ill or mentally retarded persons who have been charged with or convicted of a felony;

(3) "Foreseeable future" means not more than three hundred sixty (360) days;

(4) "Incompetency to stand trial" means that, as a result of mental condition, lack of capacity to appreciate the nature and consequences of the proceedings against one or to participate rationally in one's own defense;

(5) "Insanity" means that, as a result of mental condition, lack of substantial capacity either to appreciate the criminality of one's conduct or to conform one's conduct to the requirements of law;

(6) "Mental illness" means substantially impaired capacity to use self-control, judgment, or discretion in the conduct of one's affairs and social relations, associated with maladaptive behavior or recognized emotional symptoms where impaired capacity, maladaptive behavior, or emotional symptoms can be related to physiological, psychological or social factors;

(7) "Mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period and is a condition which may exist concurrently with mental illness or insanity;

(8) "Psychiatrist" means a physician licensed pursuant to KRS Chapter 311 who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(9) "Psychologist" means a person licensed at the doctoral level pursuant to KRS Chapter 319 who has been designated by the Kentucky Board of Examiners of Psychology as competent to perform examinations;

(10) "Treatment" means medication or counseling, therapy, psychotherapy, and other professional services provided by or at the direction of psychologists or psychiatrists. "Treatment" shall not include electroshock therapy or psychosurgery; and

(11) "Treatment facility" means an institution or part thereof, approved by the Cabinet for Human Resources, which provides evaluation, care and treatment for insane, mentally ill or mentally retarded persons on an in-patient or out-patient basis, or both.

Section 132. KRS 504.150 is amended to read as follows:

(1) The court shall sentence a defendant found guilty but mentally ill at the time of the offense to the local jail or to the ***Department of*** Corrections [~~cabinet~~] in the same manner as a defendant found guilty. If the defendant is found guilty but mentally ill, treatment shall be provided the defendant until the treating

professional determines that ***the*** [~~such~~] treatment is no longer necessary or until expiration of his sentence, whichever occurs first.

(2) Treatment shall be a condition of probation, shock probation, conditional discharge, parole, or conditional release so long as the defendant requires treatment for his mental illness in the opinion of his treating professional.

Section 133. KRS 520.010 is amended to read as follows:

The following definitions apply in this chapter, unless the context otherwise requires:

(1) "Contraband" means any article or thing which a person confined in a detention facility is prohibited from obtaining or possessing by statute, departmental regulation, or posted institutional rule or order;

(2) "Custody" means restraint by a public servant pursuant to a lawful arrest, detention, or an order of court for law enforcement purposes, but does not include supervision of probation or parole or constraint incidental to release on bail;

(3) "Dangerous contraband" means contraband which is capable of [~~such~~] use ***to*** [~~as may~~] endanger the safety or security of a detention facility or persons therein, including, but not limited to, dangerous instruments as defined in KRS 500.080, any controlled substances, and any quantity of marijuana, and saws, files, and similar metal cutting instruments;

(4) "Detention facility" means any building and its premises used for the confinement of a person:

(a) Charged with or convicted of an offense;

(b) Alleged or found to be delinquent;

(c) Held for extradition or as a material witness; or

(d) Otherwise confined pursuant to an order of court for law enforcement purposes;

(5) "Escape" means departure from custody or the detention facility in which a person is held or detained with knowledge that the departure is unpermitted, or failure to return to custody or detention following a temporary leave granted for a specific purpose or for a limited period; and

(6) As used in this section and KRS 520.015, "penitentiary" includes any facility operated by the ***Department of*** Corrections [~~Cabinet~~] and the confines of any work detail or other detail, whether under guard or not, under the custody and control of the ***Department of*** Corrections [~~Cabinet~~].

Section 134. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the ***Department of*** Corrections [~~Cabinet~~] for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the ***Department of*** Corrections [~~Cabinet~~] with directions that the sentence be carried out according to law.

Section 135. KRS 532.110 is amended to read as follows:

(1) When multiple sentences of imprisonment are imposed on a defendant for more than one (1) crime, including a crime for which a previous sentence of probation or conditional discharge has been revoked, ***the*** [~~such~~] multiple sentences shall run concurrently or consecutively as the court shall determine at the time of sentence, except that:

(a) A definite and an indeterminate term shall run concurrently and both sentences shall be satisfied by service of the indeterminate term;

(b) The aggregate of consecutive definite terms shall not exceed one (1) year; and

(c) The aggregate of consecutive indeterminate terms shall not exceed in maximum length the longest extended term which would be authorized by KRS 532.080 for the highest class of crime for which any of the sentences is imposed.

(2) If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run concurrently with any other sentence which the defendant must serve.

(3) When a defendant is sentenced to imprisonment for a crime committed while on parole in this state, ***the*** [~~such~~] term of imprisonment and any period of reimprisonment that the board of parole may require the defendant to serve upon the revocation of his parole shall run concurrently, unless the court orders them to run consecutively.

(4) Notwithstanding any provision in this section to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, during an escape from imprisonment, or while he awaits imprisonment, the sentence imposed for that offense may be added to the portion of the term which remained unserved at the time of the commission of the offense. [~~Provided, however, that~~] The sentence imposed upon any person convicted of an escape or attempted escape offense shall run consecutively with any other sentence which the defendant must serve.

(5) Notwithstanding any provision in this chapter to the contrary, if a person is convicted of an offense that is committed while he is imprisoned in a penal or reformatory institution, the sentence imposed for that offense may, upon order of the trial court, be served in that institution. ***The***[~~, provided, however, such~~] person may be transferred to another institution pursuant to ***administrative*** [~~rules and~~] regulations of the ***Department of*** Corrections [~~cabinet~~].

Section 136. KRS 532.120 is amended to read as follows:

(1) An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the ***Department of*** Corrections [~~Cabinet~~]. When a person is under more than one (1) indeterminate sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms.

(2) A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. When a person is under more than one (1) definite sentence, the sentences shall be calculated as follows:

(a) If the sentences run concurrently, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; or

(b) If the sentences run consecutively, the terms are added to arrive at an aggregate term and are satisfied by discharge of ***the*** [~~such~~] aggregate term.

(3) Time spent in custody prior to the commencement of a sentence as a result of the charge that culminated in the sentence shall be credited by the court imposing sentence toward service of the maximum term of imprisonment. If the sentence is to an indeterminate term of imprisonment, the time spent in custody prior to the commencement of ***the*** [~~such~~] sentence shall be considered for all purposes as time served in prison.

(4) If a person has been in custody due to a charge that culminated in a dismissal, acquittal, or other disposition not amounting to a conviction, the amount of time that would have been credited under subsection (3) of this section if the defendant had been convicted of that charge shall be credited as provided in subsection (3) of this section against any sentence based on a charge for which a warrant or commitment was lodged during the pendency of that custody.

(5) If a person serving a sentence of imprisonment escapes from custody, the escape ***shall interrupt*** [~~interrupts~~] the sentence. The interruption ***shall continue*** [~~continues~~] until the person is returned to the institution from which he escaped or to an institution administered by the ***Department of*** Corrections [~~Cabinet.~~] Time spent in actual custody prior to return under this subsection shall be credited against the sentence if custody rested solely on an arrest or surrender for the escape itself.

Section 137. KRS 532.200 is amended to read as follows:

As used in KRS 532.210 to 532.250, unless the context otherwise requires:

(1) "Home" means the temporary or permanent residence of a defendant consisting of the actual living area. ***If*** [~~Where~~] more than one (1) residence or family is located on a single piece of property, "home" does not include the residence of any other person who is not part of the social unit formed by the defendant's immediate family. A hospital, nursing care facility, hospice, half-way house, group home, residential treatment facility, or boarding house may serve as a "home" under this section;

(2) "Home incarceration" means use of a person's home for purposes of confinement;

(3) "Violent felony offense" means an offense defined in KRS 507.020 (murder), 507.030 (manslaughter in the first degree), 508.010 (assault in the first degree), 508.020 (assault in the second degree), 509.040 (kidnapping), 510.040 (rape in the first degree), 510.070 (sodomy in the first degree), 510.110 (sexual abuse in the first degree), 511.020 (burglary in the first degree), 513.020 (arson in the first degree), 513.030 (arson in the second degree), 513.040 (arson in the third degree), 515.020 (robbery in the first degree), 515.030 (robbery in the second degree), 520.020 (escape in the first degree), any criminal attempt to commit ***the*** [~~any such~~] offense (KRS 506.010), or conviction as a persistent felony offender (KRS 532.080) when the offender has a felony conviction for any of the above-listed offenses within the five (5) year period preceding the date of the latest conviction;

(4) "Terminal illness" ***means*** [~~is~~] a medically recognized disease for which the prognosis is death within six (6) months to a reasonable degree of medical certainty; and

(5) "Approved monitoring device" means an electronic device approved by the ***Department of*** Corrections [~~cabinet~~] or apparatus which is limited in capability to recording or transmitting information as to the prisoner's presence or non-presence in the home. ***The*** [~~Such~~] devices ***shall*** [~~must~~] be minimally intrusive. No monitoring device capable of recording or transmitting:

(a) Visual images;

(b) Oral or wire communications or any auditory sound; or

(c) Information as to the prisoner's activities while inside the home;

shall be approved.

Section 138. KRS 533.040 is amended to read as follows:

(1) A period of probation or conditional discharge commences on the day it is imposed. Multiple periods, whether imposed at the same or different times, run concurrently.

(2) If a court, as authorized by law, determines that a defendant violated the conditions of his probation or conditional discharge but reinstates probation or conditional discharge, the period between the date of the violation and the date of restoration of probation or conditional discharge ***shall*** [~~is~~] not ***be*** computed as a part of the period of probation or conditional discharge.

(3) A sentence of probation or conditional discharge shall run concurrently with any federal or state jail, prison, or parole term for another offense to which the defendant is or becomes subject during the period, unless ***the*** [~~such~~] sentence of probation or conditional discharge is revoked. ***The*** [~~Such~~] revocation ***shall*** [~~must~~] take place prior to parole under or expiration of the sentence of imprisonment or within ninety (90) days after the grounds for revocation come to the attention of the ***Department of*** Corrections [~~cabinet~~], whichever occurs first.

Section 139. KRS 533.060 is amended to read as follows:

(1) When a person has been convicted of an offense or has entered a plea of guilty to an offense classified as a Class A, B, or C felony and the commission of ***the*** [~~such~~] offense involved the use of a weapon from which a shot or projectile may be discharged that is readily capable of producing death or other serious physical injury, ***the*** [~~such~~] person shall not be eligible for probation, shock probation, or conditional discharge.

(2) When a person has been convicted of a felony and is committed to a correctional facility maintained by the ***Department of*** Corrections [~~cabinet~~] and released on parole or has been released by the court on probation, shock probation, or conditional discharge, and is convicted or enters a plea of guilty to a felony committed while on parole, probation, shock probation, or conditional discharge, ***the*** [~~such~~] person shall not be eligible for probation, shock probation, or conditional discharge and the period of confinement for that felony shall not run concurrently with any other sentence.

(3) When a person commits an offense while awaiting trial for another offense, and is subsequently convicted or enters a plea of guilty to the offense committed while awaiting trial, the sentence imposed for the offense committed while awaiting trial shall not run concurrently with confinement for the offense for which ***the*** [~~said~~] person is awaiting trial.

Section 140. KRS 640.030 is amended to read as follows:

A youthful offender, if he is convicted of, or pleads guilty to, a felony offense in Circuit Court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

(1) The presentence investigation required by KRS 532.050 shall be prepared by the Cabinet for Human Resources or by its designated representative;

(2) Any sentence imposed upon the youthful offender shall be served in a facility or program operated by the Cabinet for Human Resources until the expiration of the sentence, the youthful offender is paroled, the youthful offender is probated, or the youthful offender reaches the age of eighteen (18), whichever first occurs. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time, the sentencing court shall make one (1) of the following determinations:

(a) Whether the youthful offender shall be placed on probation or conditional discharge;

(b) Whether the youthful offender shall be returned to the Cabinet for Human Resources to complete a treatment program, which treatment program shall not exceed a period in excess of six (6) months. At the conclusion of the treatment program or at the expiration of six (6) months, whichever first occurs, the individual shall be finally discharged; or

(c) Whether the youthful offender shall be incarcerated in an institution operated by the ***Department of*** Corrections [~~Cabinet~~];

(3) If a child has attained the age of eighteen (18) prior to sentencing, he shall be returned to the sentencing court at the end of a six (6) month period if he has been sentenced to a period of placement or treatment in a Cabinet for Human Resources facility or program. The court shall have the same dispositional options as currently provided in subsection (2) of this section, except that youthful offenders shall not remain in the care of the Cabinet for Human Resources after the age of nineteen (19); and

(4) A youthful offender who is a sexual offender as defined by KRS 197.410(1) shall be provided a sexual offender treatment program as mandated by KRS 439.340(10) by the Cabinet for Human Resources pursuant to KRS 208.800 if the youthful offender has not been transferred to the ***Department of*** Corrections [~~Cabinet~~] pursuant to KRS 640.070.

Section 141. KRS 640.050 is amended to read as follows:

(1) Any period of probation or conditional discharge required by the sentencing court to be served shall be supervised, as the court may determine by written order, by:

(a) The Cabinet for Human Resources;

(b) The ***Department of*** Corrections [~~Cabinet~~]; or

(c) The designated representative of either of the above.

(2) The Cabinet for Human Resources may make recommendations to the Circuit Court concerning the disposition of the youthful offender.

(3) The court may order any of the above alternatives without regard to the age of the youthful offender.

Section 142. KRS 640.070 is amended to read as follows:

(1) Upon motion of the Cabinet for Human Resources, the sentencing Circuit Court may, after notice and hearing, order a youthful offender committed to the ***Department of*** Corrections [~~Cabinet~~] if it is established by a preponderance of the evidence that the youthful offender has:

(a) By his violent behavior, injured or endangered the life or health of another youthful offender or staff members in the facility or program;

(b) Escaped from the facility or program from which he is being held on more than one (1) occasion;

(c) By his actions, caused disruption in the facility or program by encouraging other residents to engage in violent behavior which has injured or endangered the life or health of other residents or staff of the facility or program;

(d) By his actions, caused disruption in the facility or program, smuggled contraband into the facility or program, caused contraband to be smuggled into the facility or program, or engaged in other types of behavior which have endangered the life or health of other residents or staff of the facility or program; or

(e) By his actions has established a pattern of disruptive behavior not conducive to the established policies and procedures of the program.

(2) ***The*** [~~Such~~] hearing shall be held in the sentencing Circuit Court within five (5) days of the filing of the motion provided for in subsection (1) of this section.

(3) Upon admission to a facility or program operated by the Cabinet for Human Resources, the cabinet shall advise the youthful offender of the provisions of this section.

(4) Upon motion of the Cabinet for Human Resources, the sentencing Circuit Court, may after notice and hearing, order a youthful offender committed to the ***Department of*** Corrections [~~Cabinet~~] if it is established by a preponderance of the evidence that the youthful offender is mentally ill and is dangerous to himself or others, and cannot be adequately treated in the youthful offender program. It shall be presumed that a youthful offender is mentally ill if he has pled guilty to or has been convicted of a felony and has been found by the court or jury to be guilty but mentally ill.

Section 143. KRS 640.080 is amended to read as follows:

Youthful offenders shall be subject to the jurisdiction of the Kentucky parole board and may be placed on parole to the ***Department of*** Corrections [~~Cabinet~~]. The parole board may, with regard to a youthful offender, exercise any of the powers which it possesses pursuant to KRS Chapter 439, except as provided in KRS Chapters 600 to 645.

Section 144. KRS 640.090 is amended to read as follows:

Upon the determination that a person is a youthful offender, the Cabinet for Human Resources and all other public agencies possessing records relating to the youthful offender shall, upon request, provide copies of ***the*** [~~such~~] records to the Kentucky Parole Board and to the ***Department of*** Corrections [~~Cabinet~~]. No record relating to the child, except records maintained by the youthful offender's defense attorney [~~(~~]or the Department of Public Advocacy, if he was defended by that department,[~~)~~] shall be deemed privileged from disclosure to the Parole Board.

Section 145. KRS 640.100 is amended to read as follows:

All officials of the Cabinet for Human Resources and the ***Department of*** Corrections [~~Cabinet~~] shall furnish members of the Parole Board, or its properly accredited representatives:

(1) Access at all reasonable times to any youthful offender over whom the board has jurisdiction under this chapter;

(2) Facilities for communicating with and observing ***the*** [~~such~~] youthful offender;

(3) ***The*** [~~Such~~] reports [~~as~~] the board ***requires*** [~~shall require~~] concerning the conduct and character of any youthful offender in its custody; and

(4) Any other facts deemed pertinent by the board in determining whether ***the*** [~~such~~] youthful offender shall be paroled.

Section 146. KRS 640.110 is amended to read as follows:

When a youthful offender is transferred to the ***Department of*** Corrections [~~Cabinet~~] in accordance with this chapter, the Cabinet for Human Resources shall transfer a copy of all records relating to the youthful offender to the ***Department of*** Corrections [~~Cabinet~~].

Section 147. KRS 640.120 is amended to read as follows:

(1) The Cabinet for Human Resources may promulgate administrative regulations to implement the provisions of this chapter.

(2) The ***Department of*** Corrections [~~Cabinet~~] may promulgate administrative regulations to implement the provisions of this chapter.

(3) The Kentucky Parole Board may promulgate administrative regulations to implement the provisions of this chapter.

(4) The agencies permitted to make administrative regulations under this section shall make administrative regulations which do not conflict.

SB 309, AN ACT relating to appointment of the Adjutant General.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.020 is amended to read as follows:

(1) The Governor, immediately on his induction into office, shall appoint the adjutant general[~~, who shall be not less than thirty (30) years of age and~~] who shall have served honorably, or be serving, as a commissioned officer of the Armed Forces of the United States***, and who shall:***

(a) Have at least ten (10) years commissioned service in the Kentucky National Guard. A national guard active duty tour or mobilization of national guard units into active federal duty shall not be considered a break in national guard service.

(b) Have attained at least the rank of lieutenant colonel with federal recognition.

(c) Have not been separated from the Kentucky National Guard for more than five (5) years before the date of appointment.

(d) Have met the federal recognition requirement for his current rank and be qualified to meet the requirements for federal recognition in the ranks of brigadier general and major general at the time of appointment to those ranks.

(2) The Governor shall issue a commission to the adjutant general in the grade of major general. The commission shall automatically be vacated when the adjutant general is relieved from duty or at the expiration of the term of the Governor appointing him. The adjutant general shall execute bond in the sum of ten thousand dollars ($10,000). The adjutant general shall be compensated at the base rate of pay, not including subsistence and quarters allowances, as provided in KRS 38.205, or prescribed in KRS 64.640.

SB 351, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

There is established within the Office of the Governor the Creative Services Branch. The Creative Services Branch shall provide photography, multi-media, and graphic arts services to state government.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
   (a) Secretary of State.
   (b) Board of Elections.
4. Department of Law.
   (a) Attorney General.
5. Department of the Treasury.
   (a) Treasurer.
6. Department of Agriculture.
   (a) Commissioner of Agriculture.
   (b) Kentucky Council on Agriculture.
7. Superintendent of Public Instruction.
8. Auditor of Public Accounts.
9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:
   (a) Department of State Police.
   (b) Department of Criminal Justice Training.
   (c) Office of Administration.
2. Education and Humanities Cabinet:
   (a) Department of Education.
      (1) State Board for Elementary and Secondary Education.
      (2) Education Professional Standards Board.
   (b) Department for Libraries and Archives.
   (c) ***Kentucky Arts Council.***
   (d) Kentucky Educational Television.
   (e)[~~(d)~~] Kentucky Historical Society.
   (f)[~~(e)~~] Kentucky Teachers' Retirement System Board of Trustees.
3. Natural Resources and Environmental Protection Cabinet:
   (a) Environmental Quality Commission.
   (b) Kentucky Nature Preserves Commission.
   (c) Department for Environmental Protection.

  (d) Department for Natural Resources.

  (e) Department for Surface Mining Reclamation and Enforcement.

  (f) Department of Law.

  (g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

  (a) Department of Highways.

  (b) Department of Vehicle Regulation.

  (c) Department of Administrative Services.

  (d) Department of Fiscal Management.

  (e) Department of Rural and Municipal Aid.

  (f) Office of Aeronautics.

  (g) Office of General Counsel.

  (h) Office of Public Relations.

  (i) Office of Personnel Management.

  (j) Office of Minority Affairs.

5. Cabinet for Economic Development:

  (a) Department for Existing Business and Industry.

  (b) [~~Department of the Arts.~~

  ~~(c)~~] Tobacco Research Board.

  (c)[~~(d)~~] Kentucky Development Finance Authority.

  (d)[~~(e)~~] Office of Business and Technology.

  (e)[~~(f)~~] Office of Industrial Development.

6. Public Protection and Regulation Cabinet:

  (a) Public Service Commission.

  (b) Department of Insurance.

  (c) Department of Housing, Buildings and Construction.

  (d) Department of Financial Institutions.

  (e) Department of Mines and Minerals.

  (f) Department of Public Advocacy.

  (g) Department of Alcoholic Beverage Control.

  (h) Kentucky Harness Racing Commission.

  (i) Kentucky State Racing Commission.

  (j) Registry of Election Finance.

(k) Board of Claims.

(l) Crime Victims Compensation Board.

(m) Kentucky Board of Tax Appeals.

(n) Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management and Fiscal Affairs.

(c) Office of Historic Properties.

(d) Office of Financial Management and Economic Analysis.

(e) Office of Risk Management.

(f) Department for Administration.

(g) Department of Facilities Management.

(h) Department of Information Systems.

(i) State Property and Buildings Commission.

(j) Kentucky Pollution Abatement Authority.

(k) Kentucky Savings Bond Authority.

(l) Deferred Compensation Systems.

- (m) Office of Equal Employment Opportunity Contract Compliance.
- (n) Capital Plaza Authority.
- (o) County Officials Compensation Board.
- (p) Financial Disclosure Review Commission.
- (q) Kentucky Employees Retirement Systems.
- (r) Commonwealth Credit Union.
- (s) State Investment Commission.
- (t) Kentucky Housing Corporation.
- (u) Governmental Services Center.
- (v) Kentucky Local Correctional Facilities Construction Authority.
- (w) Kentucky Turnpike Authority.
- (x) Historic Properties Advisory Commission.

9. Corrections Cabinet:
    - (a) Parole Board.
    - (b) Commission on Corrections and Community Services.
    - (c) Department of Adult Correctional Institutions.
    - (d) Department of Community Services and Facilities.
    - (e) Office of Administrative Services.
    - (f) Office of Corrections Training.
    - (g) Office of General Counsel.
10. Labor Cabinet:
    - (a) Department of Workplace Standards.
    - (b) Department of Workers' Claims.
    - (c) Kentucky Labor-Management Advisory Council.
    - (d) Occupational Safety and Health Standards Board.
    - (e) Prevailing Wage Review Board.
    - (f) Workers' Compensation Board.
    - (g) Kentucky Employees Insurance Association.
    - (h) Apprenticeship and Training Council.
    - (i) State Labor Relations Board.
    - (j) Kentucky Occupational Safety and Health Review Commission.
    - (k) Office of Administrative Services.
    - (l) Office of Labor Management Relations.

(m) Office of General Counsel.

11. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Tax Compliance.

(c) Department of Administrative Services.

12. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) ***Office of Film Promotion.***

(h) Office of General Counsel.

13. Cabinet for Workforce Development:

(a) Department for Adult and Technical Education.

(b) Department of Vocational Rehabilitation.

(c) Department for the Blind.

(d) State Board for Adult and Technical Education.

(e) Governor's Council on Vocational Education.

(f) Governor's Commission on Literacy.

(g) The State Board for Proprietary Education.

(h) The GED Foundation.

(i) The Kentucky Occupational Information Coordinating Committee.

(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 3. KRS 148.522 is amended to read as follows:

(1) There is hereby created an agency of state government to be known as the Tourism Cabinet. The cabinet shall be headed by a secretary who shall be appointed by the Governor pursuant to the provisions of KRS 12.040. The secretary shall appoint such principal assistants and personnel pursuant to the provisions of KRS Chapters 12 and 18A as are necessary to enable him to perform the functions of his office.

(2) The cabinet shall consist of the Office of the Secretary, ***the Office of Film Promotion,*** the Office of General Counsel, the Office of Administrative Services, the Department of Travel Development, the Department of Parks, and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet.

(3) ***The Office of Film Promotion shall be attached to the Office of the Secretary and shall be headed by an executive director appointed under KRS 12.050. The offices shall encourage the development of the film industry in Kentucky and shall perform all film promotional functions.***

(4) The Office of General Counsel shall be headed by a general counsel appointed by the secretary pursuant to KRS 12.210, shall provide legal services for the cabinet and shall be directly responsible to the secretary.

(5)[~~(4)~~] The Department of Travel Development shall be headed by a commissioner appointed by the Governor pursuant to the provisions of KRS 12.040. The commissioner shall have the authority and responsibility for the promotion, development, and support services for the tourism industry within the Commonwealth.

(6)[~~(5)~~] The Divisions of Tourism Services and Marketing and Advertising Services are created within the Department of Travel Development. Each division shall be headed by a division director who shall be appointed by the commissioner of the department pursuant to the provisions of KRS 12.050. The Division of Tourism Services shall operate the highway welcome centers, conduct a hospitality education program for the tourism industry, coordinate the provision of mail and telephone information services to visitors, and generate sales revenue to the tourism industry of the Commonwealth through participation in trade shows and markets. The Division of Marketing and Advertising Services shall be responsible for state tourism advertising, the state matching fund tourism advertising program, the development and maintenance of a marketing and research data base on tourism, market survey programs and special studies related to the tourism industry.

Section 4. KRS 45A.710 is amended to read as follows:

(1) No contracting body shall enter into any personal service contract for advertising, promotional, or public relations services unless the ***Creative Services Branch in the Office of the Governor*** [~~Department of the Arts, through the commissioner,~~] has been informed in writing of the specific requirements relating to such services and has declined in writing to provide the proposed services or has failed to respond to the contracting body's written request for such services within thirty (30) days after receipt of the request. The contracting body shall furnish the ***Creative Services Branch*** [~~commissioner~~] a comprehensive statement of, and be available as necessary for consultation about, the scope and nature of the proposed advertising, promotional, or public relations services.

(2) The ***Creative Services Branch*** [~~commissioner~~] shall review each proposed personal service contract to determine whether the required services are available within state government at the same or less cost, whether the provisions of the proposed contract will provide the required services, and whether the individual or agency proposing the personal service contract has the expertise and resources to provide the services. The ***Creative Services Branch*** [~~commissioner~~] shall forward ***its*** [~~his~~] determination to the secretary of the Finance and Administration Cabinet and shall recommend any modifications or alterations in the proposed personal service contract.

(3) Each proposed personal service contract for advertising, promotional, or public relations services submitted to the Legislative Research Commission or the Finance and Administration Cabinet shall be accompanied by a copy of the correspondence between the contracting body and the ***Creative Services Branch*** [~~Department of the Arts~~] including any advertisements concerning the proposed services from the ***Creative Services Branch*** [~~commissioner~~] to the contracting body under subsections (1) and (2) of this section.

Section 5. KRS 153.210 is amended to read as follows:

As used in KRS 153.210 to 153.235:

(1) The term "the arts" means endeavors which involve the application of skills or practice of esthetic principles or theories in the expression of beauty in form, color, sound, speech, or movement with a desired end of creating objects of imagination or taste for their own sake and without relation to the utility of the object produced. ***If***[~~; provided that~~] the above stated criteria are met, the term "the arts" may include, but

is not limited to, the following specific activities: music (all forms, and instrumental or vocal), dance, drama, folk art, creative writing, painting, sculpture, photography, graphic and craft arts, costume and fashion design, motion pictures, television, radio, tape and sound recording, and the arts related to the presentation, performance, execution, and exhibition of [~~such~~] major art forms.

(2) The term "production" means plays (with or without music), ballet, dance and choral performances, concerts, recitals, operas, exhibitions, readings, motion pictures, television, radio, tape and sound recordings, and any other activities involving the execution or rendition of the arts in the Commonwealth, and meeting ***the*** [~~such~~] standards ***that*** [~~as~~] may be approved by the ***council*** [~~commission~~] hereinafter established by KRS 153.210 to 153.235.

(3) The term "project" means any programs organized to carry out the purposes of KRS 153.210 to 153.235, including programs to foster Kentucky's artistic creativity, to commission works of art with a pertinence to Kentucky, to create opportunities for residents of the Commonwealth to develop artistic talents when carried on as a part of a program otherwise included in this definition, and to develop and enhance public knowledge and understanding in the Commonwealth of the arts. It also includes, where appropriate, the rental, purchase, or other acquisition of real property or any interest therein, and the rental, purchase, or other acquisition of equipment, supplies, materials, and other personal property.

(4) The term "workshop" means a production, the primary purpose of which is to encourage the artistic development of amateur, student, or other nonprofessional participants who are residents of the Commonwealth.

(5) The term "group" may include any state or other public agency, and any nonprofit society, institution, organization, association, museum, or establishment in Kentucky, whether or not incorporated.

Section 6. KRS 153.215 is amended to read as follows:

(1) There is established the Kentucky Arts Council (hereinafter referred to as "the council") which shall perform functions pursuant to KRS 153.210 to 153.235.

(2) The purpose of the council shall be to develop and promote a broadly conceived state policy of support for the arts in Kentucky pursuant to KRS 153.210 to 153.235.

(3) The membership of the council shall consist of not more than sixteen (16) members who have an interest in the arts. On July 1, 1972, the Governor shall appoint not more than four (4) members for a term of one (1) year; not more than four (4) members for a term of two (2) years; not more than four (4) members for a term of three (3) years; and not more than four (4) members for a term of four (4) years. Thereafter the Governor shall make all appointments for a term of four (4) years.

(4) Council members shall not receive any compensation for their services, but may be reimbursed in accordance with the provisions of KRS chapters 44 and 45 for actual and necessary expenses incurred in the performance of their duties under KRS 153.210 to 153.235.

(5) From the council membership the Governor shall appoint a chairman and a vice-chairman of the council. The council may elect by majority vote other officers deemed necessary.

(6) The council shall meet at the call of the chairman, but not less often than twice during each calendar year. A majority of the members appointed to the council shall constitute a quorum.

(7) The council shall be attached to the ***Office of the Secretary for Education and Humanities*** [~~department of the arts~~] for administrative purposes.

Section 7. KRS 153.220 is amended to read as follows:

The duties and functions of the arts council shall be to:

(1) Stimulate and encourage throughout the state the study and presentation of the arts, and foster public interest and participation therein;

(2) Encourage public interest in the cultural heritage of our state and expand the state's cultural resources;

(3) Encourage and assist freedom of artistic expression essential for the well-being of the arts;

(4) Serve as the sole agency in the Commonwealth for administration of a state arts plan developed in coordination with the ***Education and Humanities Cabinet*** [~~Department of the Arts~~];

(5) Establish standards and procedures and advisory committees as necessary to advise the Governor on the selection of the Kentucky poet laureate or writer laureate;

(6) Advise the Governor on matters pertaining to the arts;

(7) Adopt and promulgate regulations for the performance of its duties and functions provided in KRS 153.210 to 153.235;

(8) Receive federal grants, and other money and property of any nature whatsoever which may be given, donated, conveyed, bequeathed, devised, or otherwise transferred, without condition or restriction, except that provided by law, other than that it be used for some purpose of the council as permitted by KRS 153.210 to 153.235;

(9) [~~Receive applications, interview, and recommend to the Governor three (3) persons as nominees for appointment as the director of the Division of Arts, Department of the Arts;~~

~~(10)~~] Contract from time to time, as appropriate, with experts and consultants who may be utilized as deemed necessary, and make other necessary purchases and expenditures, all in accordance with the state plan approved by the ***secretary of the Education and Humanities Cabinet*** [~~commissioner of the Department of the Arts~~] and with the state purchasing provisions of KRS Chapters 45 and 45A;

(10)[~~(11)~~] Hold public and private hearings for the purpose of furthering the objectives of the council's programs; and

(11)[~~(12)~~] Make and sign any agreements, subject to the provisions of KRS Chapters 45 and 45A, and do and perform any acts that may be necessary to carry out the purposes of KRS 153.210 to 153.235.

Section 8. KRS 153.530 is amended to read as follows:

(1) The Citizens Advisory Commission on Kentucky Films is created as an agency of state government, and it shall be attached to the ***Office of the Secretary of the Tourism Cabinet*** [~~Department of the Arts~~] for administrative and budgetary purposes. The commission shall serve in an advisory capacity to the ***Office of Film Promotion*** [~~Department of the Arts~~] in the planning and implementation of programs dealing with the film industry.

(2) The commission shall consist of nineteen (19) members appointed by the Governor, with the secretary of the Cabinet for Economic Development and the ***secretary of the Tourism Cabinet*** [~~commissioner of the Department of the Arts~~] serving ex officio. The other seventeen (17) members shall be appointed by the Governor on the basis of their interest in or relationship to the development of a film industry in Kentucky, and one (1) member shall be designated as chairman. Members shall serve a term of four (4) years. Members of the commission shall receive twenty-five dollars ($25) per diem and necessary expenses for the performance of their duties.

(3) Meetings of the commission may be called by the chairman or by a majority of the commission membership. A majority of the commission membership shall constitute a quorum for the purpose of conducting commission business.

(4) The chairman of the commission, subject to the prior written approval of the commission, shall appoint an executive director who shall serve as the chief operating officer of the commission. The executive director, subject to the approval of the chairman, shall hire personnel, prescribe their duties, and fix their compensation within the limitations imposed by law.

(5) The commission shall have all necessary and appropriate powers to carry out these responsibilities:

(a) Establishment of a close working relationship with film industry representatives in this country and abroad, if appropriate;

(b) Coordination of locational activities in Kentucky;

(c) Provision of liaison activities during actual film production;

(d) Performance of all appropriate research and background work related to determination of film industry plans and requirements; and

(e) Establishment of an aggressive promotional and informational effort designed to attract film producers to Kentucky.

(6) The commission shall have the cooperation and assistance of the Cabinet for Economic Development, the ***Tourism Cabinet*** [~~Department of the Arts~~], and all other state agencies. Such state agencies shall interaccount the commission for goods and services utilized by the commission.

Section 9. KRS 153.620 is amended to read as follows:

(1) April 24 of each year is declared to be "Kentucky Writers' Day."

(2) The ***Education and Humanities Cabinet*** [~~Kentucky Department of the Arts~~] may plan and direct a yearly event on April 24 honoring Kentucky writers. These plans may include designing programs for schools and civic or business organizations.

Section 10. The following KRS section is repealed:

153.240 Department of the Arts — Divisions — Citizens Advisory Board.

Section 11. The General Assembly refuses to confirm the following specified provisions of Executive Order 90-727 and, pursuant to KRS 12.028(5), enacts alternative reorganization plans, as follows:

(1) Abolish the Office of Cultural Affairs, containing positions formerly assigned to the Office of Commissioner, Department of the Arts, temporarily created by Executive Order 90-727, Section 1, subsections A and B;

(2) Transfer the Governor's School for the Arts to the Office of the Secretary of the Education and Humanities Cabinet, rather than to the Office of the Governor as proposed in Executive Order 90-727, Section I, subsection D;

(3) Transfer the Kentucky Arts Council and the Crafts Branch formerly in the Department of the Arts to the Office of the Secretary of the Education and Humanities Cabinet, rather than to entities in the Cabinet for Economic Development as proposed in Executive Order 90-727, Section II, subsections A and B; and

(4) Transfer the Visual Arts Resource Program formerly in the Department of the Arts to the Kentucky Arts Council, Office of the Secretary of the Education and Humanities Cabinet, rather than to the Office of Secretary of the Economic Development Cabinet as proposed in Executive Order 90-727, Section II, subsection C.

Section 12. The General Assembly confirms Executive Order 90-727 to the extent it is not otherwise confirmed or superseded by this Act.

SCR 65, A CONCURRENT RESOLUTION directing a study of the compensation of local government officials in the Commonwealth.

WHEREAS, local government officials should be justly compensated for their responsibilities and duties; and

WHEREAS, a supplementary income source can raise ethical questions and hinder officials in the fulfillment of their work; and

WHEREAS, the General Assembly may want to change the salary restrictions in the Constitution to recognize the present situation of local government officials;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Legislative Research Commission conduct a detailed study of the compensation of local government officials throughout the Commonwealth and assess its viability in light of an official's duties, compensation given in comparable work situations, and present economic realities.

Section 2. That the details of the study, along with suitable legislative proposals, be completed no later than July 1, 1993, for referral to the appropriate committee of jurisdiction to consider the results of the study.

Section 3. Staff services to be utilized in completing this study are estimated to cost ten thousand dollars ($10,000). These staff services shall be provided from the regular commission budget, and are subject to the limitations and other research responsibilities of the commission.

SJR 69, A JOINT RESOLUTION authorizing and directing a comprehensive study of the state funding for out-of-home child care.

WHEREAS, inadequate care of abused and neglected children has a debilitating effect on the quality of life in Kentucky and may possibly result in much greater public costs through the court system, schools, medical care, and prisons;

WHEREAS, in December, 1991, seventy-one children were in placements in out-of-state facilities at higher average rates than paid in-state providers and at an estimated cost to the state of over $6 million each year; and

WHEREAS, private agencies in Kentucky which provide out-of-home child care and treatment are currently reimbursed at rates which average less than 60% of the cost of caring for the child; and

WHEREAS, during the last two years alone, the appropriation for foster care and other alternatives for abused and neglected children has grown by 28%; and

WHEREAS, out-of-home care is provided by a system of foster care, public institutions, and private nonprofit homes;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Program Review and Investigations Committee of the Legislative Research Commission is assigned to conduct a thorough study of the rate reimbursement and funding system for out-of-home care for children in Kentucky. The committee shall report its findings and recommendations to the General Assembly no later than January 31, 1993.

Section 2. In conducting the study the Program Review and Investigations Committee shall attempt to seek answers to the following questions:

1. Whether the system of reimbursement of child-care providers meets the need of the children in placements;

2. Whether the funds available are distributed fairly and equitably;

3. Whether out-of-home care is provided more effectively or more expensively by private or public agencies;

4. Whether cost savings could be effected by increasing the use of private contractors;

5. Whether the number of children in out-of-home care is projected to increase in the next ten years; and

6. What are the reasons for the placement of children in out-of-state facilities and what economic and therapeutic benefits could result from providing incentives for in-state agencies to care for children.

Section 3. Staff services to be utilized in completing this study are estimated to cost twenty thousand dollars ($20,000). These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Elections and Constitutional Amendments reported **SB 308**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 308, AN ACT relating to election precincts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.055 is amended to read as follows:

Subject to Sections 2 to 6 of this Act:

(1) Each county shall be divided into election precincts ***by the county board of elections.*** [~~The political territory having the least area within the county's boundaries, with the exception of the total area of a city~~

~~or town contained within such boundaries, shall be designated an election precinct.~~] Each election precinct shall be composed of contiguous and, as nearly as practicable, compact areas having clearly definable boundaries and wholly contained within any larger district. ***The county board of election shall establish precincts so that no boundary of a precinct crosses the boundary of:***

(a) The Commonwealth;

(b) A county or urban-county;

(c) A congressional district;

(d) A state senatorial district;

(e) A state representative district; or

(f) A justice of the peace or county commissioner's district established under KRS Chapter 67.

(2) The county board of elections shall have the authority to draw precinct lines so as to enable more than one precinct to vote at one location. The county board of elections shall review election precinct boundaries as often as necessary. Without exception they shall review the boundaries of all election precincts exceeding seven hundred (700) votes cast in the last regular election prior to each primary election. Consideration to the division of said election precincts should be based on the anticipated growth factor within the specified boundaries; however, the county board of elections shall not be prohibited from dividing election precincts in excess of seven hundred (700) votes cast in the last regular election or less than seven hundred (700) votes cast in the last regular election if they elect to do so.

(3) No election precinct shall be created, divided, abolished or consolidated or the boundaries therein changed prior to any primary election to comply with the provisions of ***Sections 1 to 6 and 9 of*** this ***Act*** [~~section~~] later than the last date prescribed by election law generally for filing notification and declaration forms with the county clerk or Secretary of State. No election precinct shall be created, divided, abolished or consolidated or the boundaries therein changed prior to any general election to comply with the provisions of ***Sections 1 to 6 and 9 of*** this ***Act*** [~~section~~] later than the last date prescribed by election law generally for filing certificates or petitions of nomination with the county clerk or Secretary of State.

(4) The county board of elections shall designate the name or number and the boundaries of the election precincts. Each precinct shall contain, as nearly as practicable, an equal number of voters, based on the number of registered voters in the county.

(5) A map and listing of the exact election precinct boundaries shall be filed by the county board of elections with the State Board of Elections, and any changes in boundaries thereafter made shall also be filed with the State Board of Elections. A copy of this map indicating all precinct boundaries within the county shall be included in the election supplies of each precinct.

(6)[~~(2)~~] If the county board of elections fails to perform ***any of*** the ***duties*** [~~duty herein~~] required ***by Sections 1 to 6 and 9 of this Act:***[~~, then~~]

(a) The State Board of Elections or any citizen and voter of the county may apply to the Circuit Court of the county for a summary mandatory order requiring the board to perform ***the*** [~~this~~] duty. Appeals may be taken to the Court of Appeals by either party***; and***

(b) The State Board of Elections shall not submit claims for payments to the county under KRS 117.343 and 117.345 until the State Board of Elections determines in writing that the duty has been performed.

(7)[~~(3)~~] The county board of elections shall coordinate all precinct boundary changes with the affected school board, magisterial and municipal boundaries.

SECTION 2. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) A county board of elections shall establish election precincts so that each boundary of each precinct follows:

(a) A boundary described in subsection (1) of Section 1 of this Act;

(b) The boundary of an incorporated city;

(c) A boundary of a school district established under KRS Chapter 160; or

(d) A boundary of a census tract or census block established by the United States Bureau of the Census for the most recent decennial census of population and appearing on census block boundary maps.

(2) If a county board of elections cannot establish a precinct that complies with Section 1 of this Act by using the boundaries permitted under subsection (1) of this section, the county board of elections may either:

(a) Establish the precinct boundary by using a boundary following a visible feature, including but not limited to a highway, railroad, or stream, and an extension of that visible feature to, but not across, another visible feature, nor across an extension of another feature that is used as a precinct boundary; or

(b) Request an exemption under Sections 4 and 5 of this Act.

(3) For purposes of this section, a "visible feature" is a physical feature shown on official maps prepared by:

(a) The Kentucky Transportation Cabinet;

(b) The United States Geological Survey; or

(c) The United States Bureau of the Census.

SECTION 3. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 6 and 9 of this Act, "establish a precinct" shall include the following:

(a) Creating a new precinct;

(b) Dividing one (1) precinct into two (2) or more precincts;

(c) Combining two (2) or more precincts into one (1) precinct; and

(d) Altering a boundary line between two (2) or more precincts.

(2) Each county board of elections shall establish precincts by issuing a proposed precinct establishment order. Each proposed precinct establishment order shall be submitted to the executive director of the State Board of Elections for approval.

(3) The order prescribed in subsection (2) of this section shall include:

(a) A written description of the boundaries of each precinct to be established;

(b) A map or maps clearly showing the boundaries of each precinct to be established;

(c) The estimated number of registered voters in each precinct to be established; and

(d) Any additional information which may be required by an administrative regulation adopted by the State Board of Elections under KRS Chapter 13A for the purposes of assuring compliance with Sections 1 to 6 and 9 of this Act.

(4) If a proposed precinct establishment order includes a description of a precinct with a boundary that follows the boundary of an entity referred to in subsection (1) of Section 2 of this Act, the order shall include the following:

(a) A description that precisely identifies the boundary line; and

(b) A notation on the map of the precinct indicating that the boundary is that of an entity referred to in subsection (1) of Section 2 of this Act and naming the specific entity.

(5) If a proposed precinct establishment order includes a description of a precinct boundary that follows one or more visible features, the order shall include a description that precisely identifies each feature that forms the precinct boundary.

SECTION 4. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) The executive director of the State Board of Elections or his designee shall examine each proposed precinct establishment order submitted under Section 3 of this Act to determine if the order would establish precincts in compliance with Sections 1 to 3 of this Act.

(2) If the executive director or his designee determines that the proposed precinct establishment order would comply with Sections 1 to 3 of this Act, the executive director shall approve the proposed precinct establishment order no later than forty-five (45) days after its receipt by the executive director. The order shall become effective upon the executive director's approval unless the order contains a different effective date.

(3) If the executive director or his designee determines that the proposed precinct establishment order would not comply with Sections 1 to 3 of this Act, the executive director shall return the proposed precinct establishment order to the county board of elections no later than forty-five (45) days after he receives the proposed order. The order shall be accompanied by a letter from the executive director indicating specifically how the order would not comply with Sections 1 to 3 of this Act.

(4) If a proposed precinct establishment order is returned to a county board of elections under this section, the board may:

(a) Amend the proposed order so that the precincts may be established in compliance with Sections 1 to 3 of this Act; or

(b) Request an exemption under Section 5 of this Act; or

(c) Request a hearing under Section 6 of this Act.

(5) The county board of elections shall resubmit the proposed order to the executive director of the State Board of Elections with the amendment, request for an exemption, or request for a hearing. If the proposed order is resubmitted with an amendment, the executive director or his designee shall review and act upon the amended proposal in accordance with subsections (1) to (3) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) When a proposed precinct establishment order has been returned to the county board of elections under Section 4 of this Act, and the county board of elections has determined that the noncompliance described by the executive director cannot be corrected by the establishment of a precinct that complies with the provisions of Sections 1 to 3 of this Act, the county board of elections may request the State Board of Elections to grant an exemption.

(2) The State Board of Elections shall conduct a hearing on the exemption request. If the State Board of Elections determines that the noncompliance described by the executive director cannot be corrected by the establishment of a precinct that complies with all provisions of Sections 1 to 3 of this Act, the board shall grant the exemption.

(3) If the State Board of Elections grants the exemption, the county board of elections shall amend the proposed precinct establishment order to establish precinct boundaries:

(a) In accordance with the exemption granted by the State Board of Elections;

(b) That comply with all other requirements established by Sections 1 to 3 of this Act; and

(c) That are precisely described in the order.

(4) The county board of elections shall submit the amended order to the State Board of Elections. If the State Board of Elections finds that the proposed order, as amended, complies with subsection (3) of this Section, it shall approve the order. The order shall become effective upon its approval by the State Board of Elections unless the order contains a different effective date.

SECTION 6. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

If the county board of elections believes that the proposed order returned under subsection (3) of Section 4 of this Act complies with Sections 1 to 3 of this Act, the county board may resubmit the order to the executive director and request a hearing before the State Board of Elections. If the State Board of Elections *determines that the proposed precinct establishment order complies with Sections 1 to 3 of this Act, the State Board of Elections shall make a written finding of fact that the order complies with Sections 1 to 3 of this Act and shall approve the order. The order shall become effective upon its approval by the State Board of Elections unless the order contains a different effective date.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) The Legislative Research Commission shall serve as the legislative department's liaison with the United States Bureau of the Census for purposes of Kentucky's participation in and receipt of census maps and data under programs implementing United States Public Law 94-171, relating to the development of population data for redistricting.

(2) The Legislative Research Commission shall maintain and continuously update a computerized map of Kentucky containing census geography and election precinct boundaries.

(3) The Legislative Research Commission shall review any proposed precinct establishment order and request for an exemption made under Sections 3 to 5 of this Act to determine the effect of the proposed order or exemption upon the Commonwealth's participation in programs to implement United States Public Law 94-171. If the Commission determines that the proposed order or exemption would have an adverse effect upon the Commonwealth's ability to participate in the programs, it shall so advise the State Board of Elections.

(4) The Legislative Research Commission may direct its interim joint subcommittee of appropriate jurisdiction to perform or oversee the performance of the responsibilities assigned to the Commission by this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

For the purposes of implementing Section 7 of this Act:

(1) The State Board of Elections shall provide the Legislative Research Commission:

(a) A copy of each proposed precinct establishment order submitted under Section 3 of this Act;

(b) A copy of each request for an exemption filed under Sections 4 and 5 of this Act;

(c) Notice of the time and place of any hearing on a request for an exemption held under Section 5 of this Act; and

(d) A copy of each precinct establishment order approved under Sections 4 to 6 of this Act.

(2) The Legislative Research Commission or its designee shall be given an opportunity to comment upon any proposed order or request for an exemption made under Section 4 to 6 of this Act prior to the State Board of Elections' approval of the order or decision on the request.

SECTION 9. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

Not later than January 1, 1995, the boundaries of all election precincts in the Commonwealth shall comply with Sections 1 and 2 of this Act, and all county boards of elections shall have filed with the State Board of Elections maps and descriptions of precinct boundaries that provide the information required by Sections 1 and 3 of this Act. For the purpose of implementing this Section:

(1) By July 15, 1993, the State Board of Elections, in consultation with the Legislative Research Commission, shall review the boundaries of all precincts in effect on the effective date of this Act to determine whether or not the boundaries comply with Sections 1 and 2 of this Act. If the State Board of Elections finds that a precinct boundary does not comply with Sections 1 and 2 of this Act, it shall so notify the county board of elections in writing.

(2) By July 15, 1993, the State Board of Elections, in consultation with the Legislative Research Commission, shall review the maps and descriptions of precinct boundaries on file with the State Board of Elections to determine if the boundaries of all precincts in effect on the effective date of this Act are described and mapped in a manner that provides the information required by Sections 1 and 3 of this Act. If the State Board of Elections finds that the information on file does not provide the information required by Sections 1 and 3 of this Act, it shall so notify the county board of elections in writing.

(3) If a county board of elections receives notice under subsection (1) or (2) of this Section, it shall prepare a proposed precinct establishment order to establish a precinct boundary in compliance with Sections 1 and 2 of this Act, or provide a map and description of the precinct boundary in compliance with Sections 1 and 3 of this Act, or both, not later than July 15, 1994. The proposed precinct establishment order shall be processed in the manner prescribed by Sections 3 to 6 of this Act.

The Committee Amendment No. 1 to **SB 308** is as follows:

Amend printed copy of **SB 308/GA** on page 4, between lines 13 and 14, by inserting the following:

"***(c) A boundary of an urban-county legislative district established under KRS Chapter 67A;***"; and

On page 4, line 14, by changing "***(c)***" to "***(d)***"; and

On page 4, line 16, by changing "***(d)***" to "***(e)***"; and

On page 7, line 15, by deleting "***forty-five (45)***" and inserting in lieu thereof "***thirty (30)***"; and

On page 7, line 25, by deleting "***forty-five (45)***" and inserting in lieu thereof "***thirty (30)***".

The Committee Amendment No. 2 to **SB 308** is as follows:

Amend printed copy of **SB 308/GA** on page 4, line 14, after "***district***" by inserting "***or school district division***".

The Committee on Natural Resources and Environmental Protection reported **SB 330** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 330, AN ACT relating to environmental protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.10-420 is amended to read as follows:

(1) Whenever the cabinet has reason to believe that a violation of any of the provisions of this chapter or any ***administrative*** [~~rule or~~] regulation promulgated pursuant thereto has occurred it shall issue and serve upon the person complained against a written notice of the provision of this chapter or the ***administrative*** [~~rule or~~] regulation alleged to have been violated and the facts alleged to constitute the violation thereof and shall require the person so complained against to answer the charges set out in the notice at a hearing before the cabinet at a time not less than twenty-one (21) days after the date of notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period.

(2) Any person not previously heard in connection with the issuance of any order or the making of any ***final*** determination ***arising under this chapter***[~~, including but not limited to the issuance, denial, modification, or revocation of any permit,~~] by which he considers himself aggrieved may file with the cabinet a petition alleging that ***the*** [~~such~~] order or ***final*** determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing. ***An order or final determination includes, but is not limited to, the issuance, denial, modification, or revocation of a permit, but does not include the issuance of a letter identifying deficiencies in an application for a permit, a registration or a certification, or other nonfinal determinations. This subsection does not abrogate the right to a hearing on a draft permit afforded by KRS 224.40-310.*** Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than twenty-one (21) days after the date of such notice, except as provided in KRS 224.10-410 or unless the person complained against waives in writing the twenty-one (21) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or ***final*** determination complained of, or could reasonably have had such notice.

Section 2. KRS 224.10-470 is amended to read as follows:

(1) Appeals may be taken from all ***final*** orders of the Natural Resources and Environmental Protection Cabinet. ***The appeal*** [~~Such appeals~~] shall be taken ***to the Franklin Circuit Court*** within thirty (30) days from ***entry*** [~~the rendition~~] of ***the final*** [~~such~~] order [~~to the Franklin Circuit Court~~]. The party or parties affected by the ***final*** order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall issue upon the petition directing the cabinet to send its entire record, properly

bound, to the clerk of the Circuit Court after certifying that such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the Circuit Court and such record shall then become official and be considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal, may, upon notice to the parties and upon proper showing and in the discretion of the court[~~,~~] be permitted to intervene. Upon hearing of the appeal the findings of the cabinet shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and ***final*** order of the cabinet.

(2) Appeals to the Court of Appeals from orders of the Circuit Court, shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

Section 3. KRS 151.182 is amended to read as follows:

(1) Whenever the cabinet has reason to believe that a violation of any of the provisions of this chapter or any [~~rule or~~] regulation promulgated pursuant thereto has occurred, it may issue and serve upon the person complained against a written notice of the provision of this chapter or the [~~rule or~~] regulation alleged to have been violated and the facts alleged to constitute the violation thereof. Further, this notice shall require the person so complained against to answer the charges set out in the notice at a hearing before the cabinet at a time not less than thirty (30) days after the date of notice unless the person complained against waives in writing the thirty (30) day period.

(2) Except as provided in KRS 151.297 regarding emergency situations, any person not previously heard in connection with the issuance of any order or the making of any ***final*** determination[~~, including but not limited to the issuance, denial, modification, or revocation of any permit,~~] by which he considers himself aggrieved may file with the cabinet a petition alleging that ***the*** [~~such~~] order or ***final*** determination is contrary to law or fact and is injurious to him, alleging the grounds and reasons therefor, and demand a hearing. ***An order or final determination includes, but is not limited to, the issuance, denial, modification, or revocation of a permit, but does not include the issuance of a notice of violation, the issuance of a letter identifying deficiencies in an application for a permit, a registration or a certification, or other nonfinal determinations.*** Unless the cabinet considers that the petition is frivolous, it shall serve written notice of the petition on each person named therein and shall schedule a hearing before the cabinet not less than thirty (30) days after the date of such notice, or unless the person complained against waives in writing the thirty (30) day period. The right to demand a hearing pursuant to this section shall be limited to a period of thirty (30) days after the petitioner has had actual notice of the order or ***final*** determination complained of, or could reasonably have had such notice.

Section 4. KRS 151.184 is amended to read as follows:

(1) All hearings under this chapter shall be held before a qualified hearing officer, who may be a full-time employee of the cabinet, serve by contract, or be paid on a per diem basis at the discretion of the cabinet. After the conclusion of the hearing, the hearing officer shall within thirty (30) days make a report to the secretary and a recommended order which shall contain a finding of fact and a conclusion of law. If the secretary finds upon written request of the hearing officer that additional time is needed, then the secretary may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record to the proceeding and they shall be granted the right to file within ***fourteen (14)*** [~~seven (7)~~] days of receipt exceptions thereto. The secretary shall consider the report***, exceptions,*** and recommended order and ***decide*** [~~pass upon~~] the case. The decision shall be served by mail upon all parties and shall be a final order of the cabinet.

(2) Any party to a hearing conducted pursuant to this chapter may be represented by counsel, [~~may~~] make oral or written argument, offer testimony, cross-examine witnesses, or take any combination of such actions. The record of ***the*** [~~such~~] hearing shall be open to public inspection, and copies thereof shall be made available to any person upon payment of the actual cost of reproducing the original.

(3) In connection with a hearing the cabinet shall issue subpoenas in response to any reasonable request by any party to the hearing requiring the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. In case of refusal to obey a subpoena issued to any person, the Franklin Circuit Court, upon application by the cabinet, may issue to that person an order requiring him to appear before the cabinet, there to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question; and any failure to obey the order of the court may be punished by the court as a contempt of court.

(4) All hearings conducted pursuant to this chapter shall be open to the public.

Section 5. KRS 151.186 is amended to read as follows:

(1) Appeals may be taken from all ***final*** orders of the cabinet. Within thirty (30) days from ***entry*** [~~the rendition~~] of ***the final*** [~~such~~] order ***the*** [~~any such~~] appeal shall be taken to the Circuit Court of the county where the structure or activity which is the subject of the order is located. The party or parties affected by the ***final*** order shall file in the Circuit Court a petition which states fully the grounds upon which a review is sought and assign all errors relied on. The cabinet shall be named respondent, and service shall be had on the secretary. Summons shall be issued upon the petition directing the cabinet to send its entire record, properly bound, to the clerk of the Circuit Court after certifying that such record is its entire original record or a true copy thereof, which shall be filed by the clerk of the Circuit Court and considered by the Circuit Court on the review. After the case has been properly docketed in the Circuit Court, any party directly affected by the issues on appeal may, upon notice to the parties and upon proper showing and in the discretion of the court, be permitted to intervene. Upon hearing of the appeal, the findings of the cabinet shall be prima facie evidence of the facts found therein. The court shall review the entire record and the findings and ***final*** order of the cabinet.

(2) Appeals to the Court of Appeals from orders of the Circuit Court shall be taken in the manner provided in the Kentucky Rules of Civil Procedure.

Section 6. KRS 224.99-020 is amended to read as follows:

(1) [~~The penalties set forth in KRS 224.99-010 may be recoverable in an action brought in the name of the Commonwealth of Kentucky by cabinet counsel. In any such action any finding of the cabinet shall be prima facie evidence of the fact or facts found therein.~~

~~(2)~~] It shall be the duty of the ***cabinet's department of law, or upon the secretary's request, of the*** Attorney General, [~~upon the request of the cabinet, to appoint cabinet counsel as a special Attorney General in order~~] to institute an action for the recovery of ***any*** [~~the~~] penalties ***and costs otherwise authorized*** [~~herein provided for~~], ***in this chapter,*** and to bring an action for an injunction against any person violating or threatening to violate any provision of this chapter, or [~~violating or threatening to violate~~] any ***administrative regulation,*** order, or determination of the cabinet promulgated pursuant thereto. In any such action any findings of the cabinet shall be prima facie evidence of the fact or facts found therein.

(2)[~~(3)~~] Nothing contained in this chapter shall abridge the right of any person to recover actual compensatory damages resulting from any violation of this chapter.

The Committee on Transportation reported **HB 790**, **HB 924**, **SB 275** and **SB 305**, with Committee Amendments and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 790, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The cabinet shall prescribe an automotive reference source for providing current fair market value of motor vehicles in this state. The source prescribed shall meet all of the following criteria:

(a) The source shall give primary consideration to the values in the local market area and may consider data on vehicles outside the area;

(b) The source's data base shall produce values for at least eighty five percent (85%) of all makes and models for the last fifteen (15) model years including values of all major options; and

(c) The source shall produce statistically valid fair market values based on current data available from the area surrounding the location where the vehicle is principally garaged or if necessary, expand the perimeters to assure a statistically valid fair market value of the vehicle.

Section 2. KRS 132.485 is amended to read as follows:

(1) The registration of a motor vehicle, recreational vehicle, or mobile home with the county clerk in order to operate it or permit it to be operated upon the highways shall be deemed consent by the registrant [~~thereof~~] for the motor vehicle, recreational vehicle, or mobile home to be assessed by the property valuation administrator at ***the fair market value*** [~~a valuation~~] determined from ***the automotive reference source required by Section 1 of this Act*** [~~a standard manual prescribed by the Revenue Cabinet~~] for valuing motor vehicles, ***and from a standard manual prescribed by the Revenue Cabinet for valuing*** recreational vehicles[~~,~~] or mobile

homes for assessment, unless the registrant appears in person before the property valuation administrator to assess the vehicle.

(2) The registration of a motor vehicle on or before the date that the registration of ***the*** [~~such~~] vehicle is required is prima facie evidence of ownership on January 1.

(3) This section ***shall*** [~~does~~] not apply to motor vehicles, recreational vehicles, and mobile homes owned and operated by public service companies, common carriers, or agencies of the state and federal governments.

Section 3. KRS 132.487 is amended to read as follows:

(1) The cabinet shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing ***the*** [~~such~~] registration. The cabinet shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983, assessments. All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the cabinet, on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The Transportation Cabinet shall provide access to all records of motor vehicle registrations to the cabinet and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the cabinet, have responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. ***Motor vehicles shall be valued at the fair market value determined from the automotive reference source required by Section 1 of this Act*** [~~The cabinet may provide standard valuation guidelines for use in valuation of motor vehicles~~].

(6) The property valuation administrator shall provide to the cabinet by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

Section 4. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) Except as provided in subsection (5) of this section, "retail price" shall be determined as follows:

(a) For new motor vehicles "retail price" shall be ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges;

(b) For used motor vehicles [~~whose values appear in the automotive reference manual prescribed by the Revenue Cabinet~~], "retail price" shall be the ***fair market value from an automotive reference source required by Section 1 of this Act*** [~~value given in such reference manual~~];

(c) For the older used motor vehicles whose values no longer appear in the automotive reference ***source*** [~~manual~~], "retail price" shall be determined as follows:

Number of Years Removed From ***Source***	Retail [~~Manual~~]Price
1	75% of value of same make vehicle last appearing in ***the source*** [~~manual~~]
2	50% of value of same make vehicle last appearing in ***the source*** [~~manual~~]
3	25% of value of same make vehicle last appearing in ***the source*** [~~manual~~]
All Others	10% of value of same make vehicle last appearing in ***the source*** [~~manual~~];

(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.

(e) If a holder of a U-Drive-It permit transfers a vehicle which he has registered as a U-Drive-It within one hundred eighty (180) days of ***the*** [~~such~~] registration, and if less than five thousand (5000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It, [~~then~~] the "retail price" of ***the*** [~~such~~] vehicle shall be the same as the retail price determined in subsection (4)(b) or (c) of this section computed as of the date on which the vehicle is transferred except that the provisions of subsection (d) of this section shall not apply.

(5) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust, including, but not limited to, damage caused by collision, fire, flood, wind, or vandalism. Any other provision of subsection (4) notwithstanding, the retail price of a wrecked motor vehicle shall be the retail price as determined without reference to this subsection minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk.

HB 924, AN ACT relating to aviation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

(1) "Enplaned passengers" means the total number of revenue passengers boarding an aircraft; and

"Revenue passenger" means a person that receives air transportation from an air carrier for which renumeration is received by the carrier.

SECTION 2. A NEW SECTION OF KRS CHAPTER 183 IS CREATED TO READ AS FOLLOWS:

(1) Members of an airport board that administer an airport that annually enplanes over eight hundred thousand (800,000) revenue passengers shall be appointed as provided in KRS 183.132; and the county judge/executive of each county located fifteen (15) air miles, along the runway heading, from the end of a runway that is seven thousand five hundred (7,500) feet or longer, shall appoint one (1) member to the airport board.

(2) Members of an airport board that administer an airport that annually enplanes between two hundred thousand (200,000) and eight hundred thousand (800,000) revenue passengers shall be appointed as provided in KRS 183.132; and the county judge/executive of each county located within five (5) air miles, along the runway heading, from the end of a runway that is seven thousand five hundred (7,500) feet or longer, shall appoint one (1) member to the airport board.

Section 3. KRS 183.132 is amended to read as follows:

(1) ***Members of airport boards shall be appointed as provided in Section 2 of this Act, in addition to the required number and manner of appointments provided in subsections (2) to (16) of this section.***

(2) Any city, [~~or~~] county, or city and county acting jointly, or any combination of two (2) or more cities and[~~/or~~] counties may establish a nonpartisan air board composed of six (6) members. ***A***[~~, or any~~] city other than ***a city of*** the first class and county jointly, other than an urban-county government established pursuant to KRS Chapter 67A, may establish a nonpartisan board composed of ten (10) members.[~~, or~~] Any existing six (6) member board, except a board established in an urban-county government, may be expanded to ten (10) members by joint action of the county and city.

(3)[~~(2)~~] Any city of the first class, jointly with the county containing ***the*** [~~such~~] city may establish a nonpartisan air board composed of eleven (11) members. [~~If a joint air board has been established prior to July 15, 1986, by a city of the first class and the county, the terms of the members on~~ ***the*** [such} ~~board shall terminate as of July 15, 1986, and the membership of the board shall be appointed in accordance with subsection (6) of this section.~~]

(4)[~~(3)~~] The board shall be a body politic and corporate with the usual corporate attributes, and in its corporate name may sue and be sued, contract and be contracted with and do all things reasonable or necessary to effectively carry out the duties prescribed by statute. The board shall constitute a legislative body for the purposes of KRS 183.630 to 183.740.

(5)[~~(4)~~] The members of an air board composed of six (6) members shall be appointed as follows:

(a) If the air board is established by a city, ***the*** [~~such~~] members shall be appointed by the mayor of the city;

(b) If the air board is established by a county, ***the*** [~~such~~] members shall be appointed by the county judge/executive***;***

(c) If an airport is located outside the boundary of the county that establishes the airport board, members of the airport board shall be appointed in the following manner:

1. Five (5) members shall be appointed by the county judge/executive of the county where the airport is located; and

2. Six (6) members shall be appointed by the county judge/executive of the county that establishes the airport board[~~except that in the event that an airport is located outside the boundary of the county establishing the airport board, the county judge/executive shall appoint an additional member to the air board from the jurisdiction where the airport is physically located. The additional member shall serve a four (4) year term in accordance with the provisions of subsection (7) of this section and receive full voting privileges on matters brought before the airport board~~];

(d)[~~(c)~~] If the air board is established as a joint city-county air board [~~such~~] members shall be appointed jointly by the mayor of the city and the county judge/executive;

(e)[~~(d)~~] If a combination of cities and[~~/or~~] counties establishes a joint air board, the mayors and[~~/or~~] county judges/executive involved shall jointly choose six (6) members, and shall jointly choose successors.

(6)[~~(5)~~] The members of an air board composed of ten (10) members shall be appointed as follows:

(a) Five (5) members shall be appointed by the mayor of the city, without approval of the legislative body;

(b) Five (5) members shall be appointed by the county judge/executive without approval of the other members of the fiscal court.

(7)[~~(6)~~] The members of an air board composed of eleven (11) members established jointly by a city of the first class and the county containing ***the*** [~~such~~] city shall be composed of the mayor of the city of the first class, the county judge/executive of the county and the secretary of the state Cabinet for Economic Development and eight (8) other members appointed as follows:

(a) Three (3) members shall be appointed by the mayor of the city of the first class;

(b) Three (3) members shall be appointed by the county judge/executive of the county, with the approval of the fiscal court; and

(c) Two (2) members, who shall be residents of ***the*** [~~such~~] county containing a city of the first class or of counties contiguous thereto, shall be appointed by the Governor of the Commonwealth.

(8)[~~(7)~~] Members of the board composed of six (6) members, shall serve for a term of four (4) years each, and until their successors are appointed and qualified.[~~, provided, however, that~~] Initial appointments shall be made so that two (2) members are appointed for two (2) years, two (2) members for three (3) years and two (2) members for four (4) years. Upon expiration of these staggered terms, successors shall be appointed for a term of four (4) years.

(9)[~~(8)~~] Members of the board composed of ten (10) members, shall serve for a term of four (4) years each, and until their successors are appointed and qualified.[~~, provided, however, that~~] The mayor and the county judge/executive shall each make their initial appointments so that one (1) member is appointed for two (2) years, two (2) members are appointed for three (3) years, and two (2) members are appointed for four (4) years.[~~; except that~~] If an existing six (6) member board is being increased to a ten (10) member board, initial appointments of the four (4) new members shall be made so that the mayor and the county judge/executive each appoint one (1) member for two (2) years and one (1) member for four (4) years. Upon expiration of these initial terms, successors shall be appointed for a term of four (4) years.

(10)[~~(9)~~] Members of the board composed of eleven (11) members, shall serve for a term of three (3) years each, and until their successors are appointed and qualified, except that the terms of the mayor, county judge/executive and the secretary of economic development shall be coextensive with their terms of office. The mayor and the county judge/executive shall each make their initial appointments so that one (1) member is appointed for one (1) year, one (1) member is appointed for two (2) years, and one (1) member is appointed for three (3) years. The Governor shall make the initial appointments so that one (1) member is appointed for two (2) years and one (1) member is appointed for three (3) years. Upon the expiration of these initial terms, successors shall be appointed for a term of four (4) years.

(11)[~~(10)~~] Members of the board shall serve without compensation but shall be allowed any reasonable expenses incurred by them in the conduct of the affairs of the board. The board shall, upon the appointment of its members, organize and elect officers. The board, except for a board composed of eleven (11) members, shall choose a chairman and vice chairman who shall serve for terms of one (1) year. ***If*** [~~Where~~] the board is composed of eleven (11) members, the mayor of the city of the first class and the county judge/executive shall jointly appoint the chairman from among the membership of the board. The board shall also choose a secretary-treasurer who may or may not be a member of the board. The board may fix a salary for the secretary-treasurer and the secretary-treasurer shall execute an official bond to be set and approved by the board, and the cost [~~thereof~~] shall be paid by the board.

(12)[~~(11)~~] The board may employ necessary counsel, agents and employees to carry out its work and functions, and prescribe [~~such rules and~~] regulations as it deems necessary.

(13)[~~(12)~~] The secretary-treasurer shall keep the minutes of all meetings of the board and shall also keep a set of books showing the receipts and expenditures of the board. He shall preserve on file duplicate vouchers for all expenditures and shall present to the board, upon request, complete reports of all financial transactions and the financial condition of the board. ***The*** [~~Such~~] books and vouchers shall at all times be subject to examination by the legislative body or bodies by whom the board was created. He shall transmit at least once annually a detailed report of all acts and doings of the board to the legislative body or bodies by whom the board was created.

(14)[~~(13)~~] ***If*** [~~In the event that~~] a joint air board is created by cities and[~~/or~~] counties, and thereafter a city [~~or cities~~] or county [~~or counties~~] desire to withdraw from participation, [~~then~~] the remaining participants may jointly choose a successor member [~~or members~~] of the board. ***A*** [~~No such~~] withdrawing city or [~~cities~~], county [~~or counties~~] shall ***not*** be entitled to return of any moneys or property advanced ***the*** [~~such~~] board.

(15)[~~(14)~~] A quorum for the transacting of the business of a six (6) member board shall consist of four (4) members, and of a ten (10) or eleven (11) member board shall consist of six (6) members. Meetings of the board may be called by the chairman or by four (4) members. In case of tie voting by the board, the issue shall be deemed to have failed passage.

(16)[~~(15)~~] A board member may be replaced by the appointing authority upon a showing to ***the*** [~~such~~] authority of misconduct as a board member or upon conviction of a felony. ***A*** [~~No~~] board member, except for the mayor of a city of the first class, county judge/executive and secretary of economic development on a board made up of eleven (11) members, shall ***not*** hold any official office with the appointing authority.

Section 4. The following KRS section is repealed:

183.475 Acquisition of airport facilities by counties bordering state boundary.

Section 5. If, upon the effective date of this Act, there exists within the Commonwealth of Kentucky a county that established an airport board that administers an airport that is not located within its geographical boundaries, the current seven (7) member air board shall begin to be appointed pursuant to Section 2 and subsections (1) and (5)(c) of Section 3 of this Act as the terms of current members expire and as vacancies occur in the current membership. The four (4) additional members authorized by subsection (5)(c) of Section 3 of this Act, shall immediately be appointed jointly by the county judge/executive of the county that established the airport board that administers the airport and the county judge/executive of the county where the airport is located. Two (2) of the new members shall initially be appointed for two (2) years, one (1) member shall initially be appointed for three (3) years, and one (1) member shall initially be appointed for four (4) years. Upon expiration of these initial terms, successors shall be appointed for a term of four years.

SB 275, AN ACT relating to overdimension permits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.270 is amended to read as follows:

(1) The department may ***promulgate*** [~~prescribe~~] administrative regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles, and vehicles transporting microwave satellite television antennae, vehicles transporting boats or farm equipment, whose gross weight including load, height, width, or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes, and unusual conditions, and upon [~~such~~] terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay in addition to a fee of sixty dollars ($60) for each overweight permit a fee of: forty dollars ($40) for any vehicle with six (6) axles; fifty dollars ($50) for any vehicle with seven (7) axles; sixty dollars ($60) for any vehicle with eight (8) axles; seventy dollars ($70) for any vehicle with nine (9) or more axles. For an overdimension permit the applicant shall pay a fee of sixty dollars ($60), and in addition, a fee of thirty dollars ($30) for any permit authorizing the movement of a load having a width of from ten (10) to fourteen (14) feet, or fifty dollars ($50) for any permit authorizing the movement of a load having a width in excess of fourteen (14) feet; twenty dollars ($20) for each single trip house trailer permit if the house trainer is fourteen (14) feet wide or less; forty dollars ($40) for each single trip house trailer permit if the house trailer exceeds fourteen (14) feet in width; a fee of eighty dollars ($80) for each annual [~~house trailer,~~] farm equipment, boat transporter, or microwave antennae transporter permit; ***a fee of five hundred dollars ($500) for each annual house trailer permit if the house trailer is sixteen (16) feet or less in width;*** a fee of five hundred dollars ($500) for each annual boat permit for units in excess of sixty-five (65) feet in length and twelve (12) feet in width; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes, and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) Annual boat permits shall be issued for any unit, including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or fourteen (14) feet in width exclusive of usual and ordinary overhang. The department may, by regulation, limit annual boat permits for units including towing vehicle and trailer combinations which exceed sixty-five (65) feet in length and twelve (12) feet in width to manufacturers and dealers, to specified routes or to exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or an unreasonable impedence of the flow of traffic would result from the presence of such units. Movement of boats in excess of sixty-five (65) feet in length and twelve (12) feet in width shall be preceded by notification to the Department of Vehicle Regulation, Division of Motor Carriers, of any trip to be made under the permit. The department may, no later than eighteen (18) hours after the receipt of notice, prohibit ***the*** [~~said~~] trip if, because of temporary or special conditions, an unreasonable risk of accident or unreasonable impedence of the flow of traffic would be created.

(3) Any motor carrier transporting equipment used to mold steel which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit pursuant to subsection (1) of this section. The permit shall be limited to a vehicle operating on a round trip basis of not more than twenty-five (25) miles. The material movement shall be limited to the manufacturing facilities of the same corporation. Reporting of these movements shall be on an annual basis, but shall include an estimate of trips which will be made weekly. The cost of the annual permit shall be five hundred dollars ($500).

(4) (a) Annual overlength permits may be issued to any utility pole or pipe transporter under the following conditions:

1. An annual overlength permit may be issued for a towing vehicle and trailer combination which does not exceed one hundred twenty-five (125) feet in overall length. Restrictions may be placed on routes and the permit use limited if unreasonable risk of accident or unreasonable impedence of traffic flow could be created. An annual permit to transport poles or pipe which are fifty-five (55) feet or less in length shall cost one hundred dollars ($100). An annual permit to transport poles or pipe which are more than fifty-five (55) feet in length shall cost three hundred fifty dollars ($350). The Department of Highways may prescribe the use of escort vehicles, and the permit holder shall notify the Department of Highways of each trip or series of trips to be made. The department may cancel or reroute the trip if an unreasonable risk of accident or impedence of the flow of traffic could be created.

2. An annual overlength permit may be issued for a straight truck capable of transporting utility poles or pipe on a specially designed pole rack mounted on the body of the truck if the pole or pipe length exceeds forty-five (45) feet. Restrictions may also be placed on routes and the permit use limited if unreasonable risk of accident or unreasonable impedence to traffic flow could be created. The cost of this overlength permit shall be one hundred dollars ($100).

3. An annual overlength permit may be issued for a straight truck capable of transporting utility poles or pipe on specially designed pole racks mounted on the body of the truck if the pole or pipe length exceeds fifty-five (55) feet, but does not exceed ninety-five (95) feet. The permit shall cost three hundred fifty dollars ($350). The Department of Highways may prescribe the use of escort vehicles, and the permit holder shall notify the Department of Highways of each trip or series of trips made. The department may cancel or reroute the trip if an unreasonable risk of accident or impedance of the flow of traffic could be created.

4. More than one (1) type of permit authorized in subparagraphs (1) and (2) of this paragraph may be issued for the same vehicle. The maximum cost of the multiple-use annual permit shall be three hundred fifty dollars ($350).

(b) The secretary of transportation shall, by administrative regulation, prescribe additional safety requirements for movements of these vehicles. Regulations promulgated for this subsection shall not restrict the ability of a permit holder to respond to an emergency due to an electrical or gas outage.

(5) Each motor carrier used in transporting prefabricated wood trusses, used in residential and commercial construction, which exceeds the dimensional limits for movement over a highway in this state may apply for an annual overdimensional permit. The Department of Vehicle Regulation shall assess the applicant a fee of five hundred dollars ($500) for each annual permit. A copy of the permit shall be carried at all times in the vehicle and shall be shown to a peace officer upon demand. The department may restrict the use of the permits to specified routes or exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or impedence of the flow of traffic could result. The department shall adopt administrative regulations setting forth the safety requirements which shall be met prior to the movement of any vehicle under the provisions of this permit including setting the dimensions at which the transporter shall contact the department for specific, individual authority for the movement under the annual permit.

(6) Any person transporting a parade float which exceeds the dimensional limits on a highway over which it is transported shall be required to obtain a permit as required in subsection (1) of this section. If the float is being used in conjunction with a parade to be held within the boundaries of the Commonwealth, no fee shall be assessed by the department for the issuance of the permit.

(7) No person shall operate any motor vehicle, mobile home, or recreational vehicle in violation of the terms of the permit.

SB 305, AN ACT relating to operator's licenses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.560 is amended to read as follows:

(1) The cabinet shall [~~forthwith~~] revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Murder or manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle ***that*** [~~which~~] is not a motor vehicle while under the influence of alcohol or any other substance ***that*** [~~which~~] may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by Subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; [~~and~~]

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085***; and***

(j) Conviction of any drug-related offense listed in KRS Chapter 218A, of any drug-related offense in another jurisdiction, or of the Federal Controlled Substances Act.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license ***that*** [~~which~~] had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall [~~forthwith~~] cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation, or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle for a violation of subsection (1)(a) of this section shall be for a period of not less than five (5) years. Revocations or denials under this section shall not be subject to any lessening of penalties authorized under any other provision of this section or any other statute.

(5) In all other cases, the revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless ***if*** [~~of whether~~] the person's license was revoked because of the previous conviction, the period of the revocation, denial, or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless ***if*** [~~of whether~~] the person's license was revoked for any previous conviction, the period of revocation, denial, or withdrawal shall be for not less than two (2) years. ***If*** [~~Provided, however,~~] the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of ***an*** [~~said~~] offense, that ***the*** [~~said~~] person's operator's license shall not be revoked, restricts ***the*** [~~said~~] person's operator's license according to [~~such~~] terms and conditions [~~as~~] the secretary in his discretion may require ***if the***[~~, provided said~~] person has enrolled in ***an*** [~~such~~] alcohol or substance abuse education or treatment program as the cabinet shall require. ***If the*** [~~In the event said~~] person fails to satisfactorily complete ***the*** [~~said~~] education or treatment program or violates the restrictions on his operator's license, the cabinet shall [~~forthwith~~] revoke his operator's license for a period of six (6) months.

(6) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080, the person whose license is suspended or revoked shall comply with the fees and other procedures of the Transportation Cabinet with regard to the reinstatement of suspended or revoked licenses.

(7) The cabinet shall revoke the license of any operator of a motor vehicle upon receiving notification that the person is under age eighteen (18) and has dropped out of school or is academically deficient, as defined in KRS 159.051(1).

(8) The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, to comply with the provisions of Public Law 101-516, Section 333, and federal regulations adopted pursuant thereto.

SECTION 2. A NEW SECTION OF KRS CHAPTER 218A IS CREATED TO READ AS FOLLOWS:

Each court convicting any person fifteen and one-half (15 1/2) years of age or older of a violation of any of the provisions of KRS Chapter 218A shall immediately notify the Transportation Cabinet of the conviction.

Section 3. The following KRS section is repealed:

218A.991 Revocation or denial of operator's license.

The Committee Amendment No. 1 to **SB 305** is as follows:

Amend printed copy of GA Copy of **SB 305** on page 5, between lines 13 and 14, insert the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 281A IS CREATED TO READ AS FOLLOWS:

(1) The Transportation Cabinet shall not terminate the services of any employee in a job classification that requires a valid commercial driver's license if:

(a) The employee has never held an operator's license;

(b) The employee is not eligible for a medical waiver to operate a commercial vehicle;

(c) The employee's driving record as of March 31, 1992, precludes the issuance of a commercial drivers license;

(d) The employee's job description, as of April 1, 1992, does not require a commercial driver's license; or

(e) The employee retires by December 31, 1992.

(2) The Transportation Cabinet may terminate the employment of any employee whose job classification requires a commercial driver's license as of April 1, 1992, if the employee holds a valid Kentucky driver's license, but has failed to apply for a commercial driver's license and refuses to make an effort to take the necessary tests to obtain a commercial driver's license.

(3) The Transportation Cabinet shall not require a person to possess a commercial driver's license at the time of employment, but any employee who is required to obtain a commercial driver's license as a requirement for a job classification shall obtain the license prior to the expiration of the employee's six (6) month probationary period."; and

On page 5, line 14, renumber existing "Section 3" as "Section 4"; and

On page 5, after line 15, insert the following:

"Section 5. Whereas the federal and state deadlines for obtaining a commercial driver's license is April 1, 1992, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.".

The Committee Amendment No. 2 to **SB 305** is as follows:

Amend printed copy of **SB 305/GA** on page 5, between lines 13 and 14, insert the following:

"Section 3. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010 shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, ninety days. ***If the operator of the motor vehicle was convicted of driving under the influence of an illegally obtained controlled substance as defined in KRS Chapter 218A, the revocation period shall be six (6) months***;

(b) For the second offense within a five (5) year period, twelve (12) months;

(c) For a third offense within a five (5) year period, twenty-four (24) months; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010(4)(e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010 shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) of this section, whichever penalty will result in the longer period of revocation.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. No court shall waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court."; and

On page 5, line 14, renumber existing "Section 3" as "Section 4".

The Committee Title Amendment to **SB 305** is as follows:

Amend printed copy of **SB 305/GA** to amend the title to read as follows:

"AN ACT relating to operator's licenses and declaring an emergency.".

Floor Amendments

Floor Amendment No. 1 to the Committee Substitute to **HB 831**, by Representative Zimmerman:

Amend printed copy of **HB 831/HCS** on page 1, line 17, after the word "of", by inserting the words "***one (1) year***"; and by placing a bracket before the word "five", and after the word "years", and by striking through all words between the brackets.

Calendar

SB 314, SB 315, SB 316, HB 473, HB 709, HB 715, HB 881, HB 640, HB 870, SB 110, SB 151, SB 215, HB 691, HB 914, SB 313, SB 323, SB 335, HB 930, HB 937, HB 77, HB 443, HB 787, HB 849, HR 132, HR 133, SB 51, SB 74, SB 75, SB 78, SB 82, SB 260 and **SJR 85** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **HB 831**, by Representative Zimmerman:

Amend printed copy of **HB 831/HCS** on page 2, line 2, after the word "by", by inserting the following: "***the charitable organization under whose tax-exempt status the charitable gaming is being conducted, using***"; and

On page 2, line 3, after the word "services.", by adding the following: "***No charitable organization shall contract with, or otherwise utilize the services of, any management company or other organization in conducting charitable gaming activities.***".

Floor Amendment No. 2 to **SB 66**, by Representative Ridley:

Amend printed copy of **SB 66/GA** on page 3, line 17, by adding

"Section 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

Benefits payable under a policy described in KRS 18A.225 or under the self-funded plan described in KRS 18A.2281 shall be paid directly to the hospital or person rendering covered services if the insurer or plan has received an assignment of benefits to the hospital or person rendering covered services that is in writing and signed by the insured employee. Payment so made shall discharge the obligation of the insurer or plan with respect to the amount paid.".

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 70**, **SB 112**, **SB 144**, **HB 859**, **SB 192**, **SB 216**, **SB 220**, **SB 251**, **SB 3**, **SB 80**, **SB 81**, **SB 116**, **SB 139**, **SB 145**, **SB 160**, **SB 187**, **SB 202**, **SB 206**, **SB 210**, **SB 212**, **SB 213**, **SB 214**, **HB 443**, **HB 473**, **HB 640**, **HB 691**, **HB 709**, **HB 715**, **HB 787**, **HB 849**, **HB 870**, **HB 881**, **HB 930**, **HB 937**, **HR 132**, **HR 133**, **SB 314**, **SB 315** and **SB 316** have been posted for passage in the Orders of the Day for March 20, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Natural Resources and Environmental Protection: **HB 768**

Appropriations and Revenue: **HB 858**, **SB 108**

Orders of the Day

SB 189 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 189** be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 19, 1992 roll call on **SB 189** - Appendix.)

SB 189 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 189** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 190 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 190** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 19, 1992 roll call on **SB 190** - Appendix.)

SB 190 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 190** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 3 to the Committee Substitute to **HB 831**, by Representative Lear:

Amend printed copy of **HB 831/HCS** on page 1, line 19, by deleting the word "***resided***" and inserting in lieu thereof the following: "***maintained a place of business or operations, other than for the purposes of conducting charitable gaming,***".

On page 1, line 21, after the word "***county.***", by adding the following: "***The letter from the Internal Revenue Service granting tax exempt status shall be displayed prominently at the premises in which charitable gaming is conducted, at all times gaming is conducted.***"

On page 2, line 25, after the word "***exceed***" by deleting the word "***three***" and inserting in lieu thereof the word "***five***".

On page 2, line 25, after the word "***dollars***" by deleting the number "***($3,000)***" and inserting in lieu thereof, the number "***($5,000)***".

On page 2, line 26, after the word "***value***" by deleting the words "***per session***" and by inserting in lieu thereof the following:

"***in any one day of operations***".

On page 3, line 26, after the "(8)", by inserting the following: "***All cash payments and receipts of any kind associated with the gaming activity shall be handled only by bona fide officers or employees of the charitable organization.***"

On page 5, after line 25, by adding the following:

(5) The Office of Attorney General shall have authority to investigate any allegations of wrong doing in the conduct of charitable gaming, to audit financial records relating to charitable gaming activity and to enforce applicable laws."

On page 6, by deleting lines 2 to 12 in their entirety and inserting in lieu thereof the following:

"***(1) Any organization which fails to comply with the provisions of KRS 528.010 and Sections 1 and 2 of this Act, shall not be considered engaging in charitable gaming and shall be subject to appropriate penalties provided in this chapter.***

(2) Any organization registered under Section 2 of this Act, which commits fraud in securing registration or makes a material false statement in the registration process or in quarterly reporting, shall be guilty of perjury in the first degree.

(3) Any organization guilty of a violation under subsections (1) and (2) of this section, shall have its registration suspended or revoked by a court, in addition to the penalties imposed in subsections (1) and (2) of this section."

Orders of the Day (Continued)

HB 472, with Senate Amendment and Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 472** is as follows:

Amend printed copy of **HB 472/GA** on page 1, line 20, after "***operation.***" by inserting the following sentence: "***The cabinet and fiscal court public hearings shall be held simultaneously.***"

The Senate Floor Amendment No. 2 to **HB 472** is as follows:

Amend printed copy of **HB 472** on page 1, line 16, delete "***accept an application***" and substitute "***issue a permit***"; and

On page 1, line 20, by inserting after "*operation.*" the following sentence: "***The cabinet, upon request, shall conduct a public hearing at the same time the fiscal court conducts its public hearing.***"

Representative Deskins moved that the House refuse to concur in the Senate Amendment No. 1 to **HB 472**. Agreed.

Representative Deskins moved that the House concur in Senate Floor Amendment No. 2 to **HB 472**. Agreed.

Representative Deskins moved that **HB 472** with Senate Amendment No. 1 be returned to the Senate.

HB 528, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 528**. Agreed.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 528**. Agreed.

Representative Donnermeyer moved that **HB 528**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 19, 1992 roll call on **HB 528** - Appendix.)

HB 528, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 528**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 729, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **HB 729**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 2 to **HB 729**. Agreed.

Representative Moberly moved that **HB 729**, as amended, be passed.

Representative Strong moved that the House consider Floor Amendment No. 3 (P) to **HB 729**.

On the roll call the vote was yeas 37—Ackerson, Allen, Altman, Bentley, Bronger, Bruce, Bryant, Callahan, Casebier, Collins, Donnermeyer, Farley, Ford, Gee, Heleringer, Jensen, Keith, Lile, Maggard, Mason, Napier, Noland, Nunn, Overstreet, Reinhardt, Sanders, B. Smith, T. Smith, Stokes, Strong, Toby, Todd, Turner, Walker, Williams, Worthington, Zimmerman. Nays 16—Ark, Burch, L. Clark, Clarke, Freibert, Gray, Lear, Lewis, Long, Moberly, Rapier, Richards, Riggs, Scorsone, Wayne, Yates.

The motion that the House consider Floor Amendment No. 3 (P) to **HB 729** was rejected.

On the roll call the vote was: Yeas 75, Nays 12. (See March 19, 1992 roll call on **HB 729** - Appendix.)

HB 729, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 729**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 220**, by Representative Lear:

Amend printed copy of **SB 220/GA** on page 1, line 6, delete "***affect or***".

Orders of the Day (Continued)

HB 39 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mullinix moved that **HB 39** be passed.

On the roll call the vote was: Yeas 82, Nays 11. (See March 19, 1992 roll call on **HB 39** - Appendix.)

HB 39 was passed and the title agreed to.

Representative Mullinix moved that the vote by which **HB 39** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 242 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **HB 242** be passed.

On the roll call the vote was: Yeas 78, Nays 6. (See March 19, 1992 roll call on **HB 242** - Appendix.)

HB 242 was passed and the title agreed to.

Representative Bowling moved that the vote by which **HB 242** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 291, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved the adoption of Committee Amendment No. 1 to **HB 291**. Agreed.

Representative B. Smith moved that **HB 291**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 10. (See March 19, 1992 roll call on **HB 291** - Appendix.)

HB 291, as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 291**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 532 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 532** be passed.

On the roll call the vote was: Yeas 89, Nays 4. (See March 19, 1992 roll call on **HB 532** - Appendix.)

HB 532 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 532** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 852 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ward moved that **HB 852** be passed.

On the roll call the vote was: Yeas 53, Nays 31. (See March 19, 1992 roll call on **HB 852** - Appendix.)

HB 852 was passed and the title agreed to.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 161**, by Representative Barrows:

Amend printed copy of **SB 161/GA** on page 1, line 4, delete "***appropriations act***" and insert in lieu thereof "***appropriation of the General Assembly, or by or on behalf of any Kentucky school district***"

On page 1, line 4, after "***agency***" insert "***, corporation, or school district***"

Orders of the Day (Continued)

HB 780, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ward moved the adoption of Floor Amendment No. 1 to **HB 780**. Agreed.

Representative Ward moved that **HB 780**, as amended, be passed.

On the roll call the vote was: Yeas 63, Nays 25. (See March 19, 1992 roll call on **HB 780** - Appendix.)

HB 780, as amended, was passed and the title agreed to.

HB 653, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of the Committee Substitute to **HB 653**. Agreed.

Representative Morris moved that **HB 653**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 19, 1992 roll call on **HB 653** - Appendix.)

HB 653, by way of Committee Substitute, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 653**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 850 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved that **HB 850** be passed.

On the roll call the vote was: Yeas 17, Nays 50. (See March 19, 1992 roll call on **HB 850** - Appendix.)

HB 850 was defeated.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 14** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:58 p.m.)

HB 14 was delivered to the Senate and signed by the President. Delivered to the Governor on March 19, 1992 at 3:09 p.m.

Orders of the Day (Continued)

HB 609 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 609** be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See March 19, 1992 roll call on **HB 609** - Appendix.)

HB 609 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 609** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 80**, by Representative Ackerson:

Amend printed copy of **SB 80/GA** on page 4, after line 15, by adding the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 454 IS CREATED TO READ AS FOLLOWS:

A court in any matrimonial action or family court proceeding involving a demand for support, alimony, maintenance, distributive awards, or special relief in matrimonial actions may exercise personal jurisdiction over the respondent or defendant notwithstanding the fact that he or she no longer is a resident or domiciliary of this state, or over his or her executor or administrator, if the party seeking support is a resident of or domiciled in this state at the time the demand is made, if this state was the matrimonial domicile of the parties before their separation; the defendant abandoned the plaintiff in this state; or the claim for support, alimony, maintenance, distributive awards, or special relief in matrimonial actions accrued under the laws of this state. The action shall be filed within one (1) year of the date the respondent or defendant became a nonresident of, or moved his domicile from, this state. Service of process may be made by personal service if the defendant or respondent is found within the state or by service through the use of KRS 454.210(3)."

Orders of the Day (Continued)

HB 853 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 853** be passed.

On the roll call the vote was: Yeas 44, Nays 42. (See March 19, 1992 roll call on **HB 853** - Appendix.)

HB 853 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 853** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 902 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved that **HB 902** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 19, 1992 roll call on **HB 902** - Appendix.)

HB 902 was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 902** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 896 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 896** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 19, 1992 roll call on **HB 896** - Appendix.)

HB 896 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 896** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 943, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sanders moved the adoption of Committee Amendment No. 1 to **HB 943**. Agreed.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to **HB 943**. Agreed.

Representative Sanders moved that **HB 943**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 11. (See March 19, 1992 roll call on **HB 943** - Appendix.)

HB 943, as amended, was passed and the title agreed to.

Representative Sanders moved that the vote by which **HB 943**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 159, with Committee Substitute and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HCR 159**. Agreed.

Representative Geveden moved that **HCR 159**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 87, Nays 0. (See March 19, 1992 roll call on **HCR 159** - Appendix.)

HCR 159, by way of Committee Substitute, was adopted.

Representative Geveden moved the adoption of the Floor Title Amendment to **HCR 159**. Agreed; and the title was agreed to.

Representative Geveden moved that the vote by which **HCR 159**, by way of Committee Substitute as amended, was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 171 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HCR 171** be adopted.

On the roll call the vote was: Yeas 91, Nays 0. (See March 19, 1992 roll call on **HCR 171** - Appendix.)

HCR 171 was adopted.

Representative Richards moved that the vote by which **HCR 171** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 167, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HCR 167**. Agreed.

Representative Moberly moved that **HCR 167**, by way of Committee Substitute, be adopted.

On the roll call the vote was: Yeas 85, Nays 0. (See March 19, 1992 roll call on **HCR 167** - Appendix.)

HCR 167, by way of Committee Substitute, was adopted.

Representative Moberly moved that the vote by which **HCR 167**, by way of Committee Substitute, was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 13, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Floor Amendment No. 1 to **SB 13**. Agreed.

Representative Donnermeyer moved that **SB 13**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 6. (See March 19, 1992 roll call on **SB 13** - Appendix.)

SB 13, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 13**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 119, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **SB 119** be passed.

On the roll call the vote was: Yeas 54, Nays 26. (See March 19, 1992 roll call on **SB 119** - Appendix.)

SB 119 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 119** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 47 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **SB 47** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 19, 1992 roll call on **SB 47** - Appendix.)

SB 47 was passed and the title agreed to.

Representative Farrow moved that the vote by which **SB 47** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 341, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved the adoption of the Committee Substitute to **SB 341**. Agreed.

Representative R. Smith moved that **SB 341**, by way of Committee Substitute, be passed.

Representative Riner moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 341**.

On the roll call the vote was yeas 39—Ackerson, Barrows, Bowling, Burch, Casebier, L. Clark, P. Clark, Clarke, Collins, Cyrus, Deskins, Donnermeyer, Ford, Gray, Hancock, Hatcher, Heleringer, Johnson, Keith, Little, Long, Mack, Mason, Moberly, Morris, Napier, Noe, Overstreet, Reinhardt, Richards, Riggs, Riner, Scorsone, Stokes, Strong, Stumbo, Todd, Wayne, Worthington. Nays 45—Adkins, Allen, Altman, Ark, Arnold, Ballard, Bentley, Bronger, Butler, Callahan, Castleman, Coleman, Crupper, Curd, Farley, Farrow, Gee, Geveden, Gregory, J. Harper, Hourigan, Jones, Kerr, Lear, LeMaster, Lewis, Lyne, McElroy, Mullinix, Nelson, Nunn, Palumbo, Pritchett, Ravenscraft, Richardson, Sheehan, B. Smith, R. Smith, T. Smith, Toby, Turner, Walker, Williams, Yates, Zimmerman.

Floor Amendment No. 1 to the Committee Substitute to **SB 341** was rejected.

On the roll call on the passage of **SB 341**, by way of Committee Substitute, the vote was: Yeas 90, Nays 3. (See March 19, 1992 roll call on **SB 341** - Appendix.)

SB 341, by way of Committee Substitute, was passed and the title agreed to.

Representative R. Smith moved that the vote by which **SB 341**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 32 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Turner moved that **SB 32** be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See March 19, 1992 roll call on **SB 32** - Appendix.)

SB 32 was passed and the title agreed to.

Representative Turner moved that the vote by which **SB 32** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 205, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **SB 205**. Agreed.

Representative Stumbo moved that **SB 205**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 19, 1992 roll call on **SB 205** - Appendix.)

SB 205, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 205**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 17, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 17** is as follows:

HB 17, AN ACT relating to water service.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.150 is amended to read as follows:

(1) Any city that owns or operates a water supply or sanitary sewer system may extend the system into, and furnish and sell water and provide sanitary sewers to any person within, any territory contiguous to the city, and may install within that territory necessary apparatus; provided, however, that the extension of a water supply or sanitary sewer system shall not enter into any territory served by an existing water supply or sanitary sewer district unless such district requests the extension of water or sewer services from a city. For these purposes the city or sanitation authority established by an interlocal agreement may condemn or otherwise acquire franchises, rights and rights of way, as private corporations may do.

(2) When extending the system to any person, water district, or water association, the city may consider the installation of fire hydrants on the extended lines. The city may extend water lines which are incapable of servicing fire hydrants only if the city determines that servicing hydrants is not feasible. The determination shall include consideration of the incremental costs of adequately sized pipe and associated pumps and towers, and the benefits of real estate development, water sales, the availability of fire protection insurance, and the reduction in fire insurance premiums which may result from the installation of hydrants at specified intervals. When extending lines to a water district or water association, the determination may be made in consultation with the district or association, taking into consideration their fiscal capacity.

Section 2. KRS 74.415 is amended to read as follows:

(1) The commissioners of a water district***, or the governing body of a water association referred to in KRS 74.012(1),*** in order to provide adequate means of fire protection, ***may consider the installation of fire hydrants on*** [~~may require minimum fire hydrant spacing for~~] new or extended water lines within their area. ***They may investigate the availability of supplementary funding to pay the incremental costs of line sizing and hydrant installation. The commissioners or governing body shall not eliminate fire hydrants from new or extended water lines unless they determine that hydrants are not feasible. Their analysis shall include consideration of the incremental costs of adequately sized pipe and associated pumps and towers, and the benefits of real estate development, water sales, the availability of fire protection insurance, and the reduced fire insurance premiums which may result from the installation of hydrants at specified intervals.***

(2) If a private real estate subdivision developer has not included adequately sized pipe and fire hydrants in his development plan, the commissioners of a water district or the governing body of a water association

which has the capacity to supply adequate water for fire hydrants shall require, at the time the developer applies for permission to hook into the district's water lines, an analysis by the developer of the incremental cost of hydrants and piping adequately sized for hydrants, the effect of hydrants on the cost and availability of fire protection insurance, and conclusions as to why the installation of hydrants is not feasible.

Representative Nunn moved that the House concur in the Senate Committee Substitute to **HB 17**. Agreed.

Representative Nunn moved that **HB 17**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 19, 1992 roll call on **HB 17** - Appendix.)

HB 17, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 17**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of and Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HR 234, by Representatives Gregory and Ark: A RESOLUTION in honor of Ray Mackey.

HR 235, by Representative Strong: A RESOLUTION in honor of Marguerite Bray.

HR 236, by Representative Collins: A RESOLUTION adjourning in memory of Johnson County Sheriff, Cecil "Gene" Cyrus.

HCR 237, by Representatives B. Smith and Sanders: A CONCURRENT RESOLUTION urging the secretary of the Transportation Cabinet to designate Kentucky Routes 70, 101, and 259 as scenic corridors.

HR 238, by Representative Donnermeyer: A RESOLUTION honoring Bev Smith from Silver Grove, a member of the Morehead State University Lady Eagles' 1,000 point club.

HR 239, by Representatives Mason and Ward: A RESOLUTION urging Louisville's corporations and individuals to support the efforts of Heart Strings, the AIDS Memorial Quilt, and You: "An Event in Three Acts."

HR 240, by Representative K. Harper: A RESOLUTION honoring the late Dr. Sean MacBride and supporting his principles.

HR 241, by Representative Long: A RESOLUTION honoring the Shelby County High School Lady Rockets basketball team.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Elections and Constitutional Amendments: **SB 186**

Transportation: **SB 320**

Natural Resources and Environmental Protection: **SB 372, SB 381, SJR 108, SB 56, SB 118**

Business Organizations and Professions: **SB 422**

Judiciary: **SB 325, SB 244, SB 87, SB 103, SB 188, SB 53, SB 131**

The Clerk announced the following Bills have been withdrawn from Committee consideration:

Natural Resources and Environmental Protection: **HB 60, HB 228, HB 567, HB 614, HB 621, HB 622, HB 632, HB 716, HB 718, HB 741, HB 890, HB 894**

Report of Committees (Continued)

The Committee on Health and Welfare reported **HB 717** and **SB 306** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 717, AN ACT relating to amygdalin (laetrile).

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217.950 is amended to read as follows:

[~~(1) Amygdalin (laetrile) may be manufactured in this state subject to licensing and regulation by the Cabinet for Human Resources. The secretary of the Cabinet for Human Resources shall adopt regulations which prescribe minimum standards for manufacturers in preparing, compounding, processing, and packaging the substance. The secretary shall establish standards of purity and shall make periodic tests and inspections of both the facilities for manufacture and samples of the substance to ascertain the purity, quality and identity of the substance and to determine that the substance meets the standards so established.~~

~~(2)~~] The Cabinet for Human Resources shall ***promulgate*** [~~make~~] no [~~rule or~~] regulation which would prohibit the use of amygdalin (laetrile) in any hospital, ambulatory outpatient surgical center, or health care facility licensed by it.

Section 2. The following KRS sections are repealed:

217.952 Laetrile not to be sold in interstate commerce, penalty.

311.991 Penalty.

315.192 Board of Pharmacy not to prohibit sale and dispensing of laetrile.

SB 306, AN ACT relating to minority elderly persons.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.201 is amended to read as follows:

The duties of the Cabinet for Human Resources shall be to:

(1) Promote and aid in the establishment of local programs and services for the aging;

(2) Conduct programs to educate the public as to problems of the aging;

(3) Review existing state programs and services for the aging and to make recommendations to the Governor, to the appropriate department and agencies of the state, and to the Legislature for improvements in and additions to such programs and services;

(4) Assist and encourage governmental and private agencies to coordinate their efforts on behalf of the aging;

(5) Conduct and encourage other organizations to conduct studies concerning the aging;

(6) Establish, in selected areas and communities of the state, programs of services for the aging to demonstrate the value of such programs, and to encourage local agencies to continue the programs and to create new services where needed. Emphasis shall be given to services designed to foster continued participation of older people in family and community life and to lessen the need for institutional care;

(7) ***Provide services designed to meet the needs of the minority elderly in programs administered by the cabinet. The cabinet shall annually prepare a report identifying the special needs of the minority elderly population in the Commonwealth as compared to the elderly population at-large. The report shall be completed no later than October 1 of each year and transmitted to the Legislative Research Commission. The report shall, at a minimum:***

(a) Contain an overview of the health status of minority elderly Kentuckians;

(b) Identify specific diseases and health conditions for which the minority elderly are at greater risk than the general population;

(c) Identify problems experienced by the minority elderly in obtaining services from governmental agencies; and

(d) Identify programs at the state and local level designed to specifically meet the needs of the minority elderly;

(8) In preparing the report required by subsection (7) of this section, the cabinet shall solicit and consider the input of individuals and organizations representing the concerns of the minority elderly population as relates to:

(a) Programs and services needed by the minority elderly;

(b) The extent to which existing programs do not meet the needs of the minority elderly;

(c) The accessibility of exisiting programs to the minority elderly;

(d) The availability and adequacy of information regarding existing services;

(e) Health problems the minority elderly experience at a higher rate than the non-minority elderly population; and

(f) Financial, social, and other barriers experienced by the minority elderly in obtaining services.

(9) Conduct an outreach program that provides information to minority elderly Kentuckians about health and social problems experienced by minority elderly persons and available programs to address those problems, as identified in the report prepared pursuant to subsection (7) of this section; and

(10) Cooperate with the federal government and with the governments of other states in programs relating to the aging.

Section 2. KRS 205.203 is amended to read as follows:

(1) The secretary of the Cabinet for Human Resources ***may*** [~~is authorized to~~] provide, within budgetary limitations, for in-home services to the aging to include, but not necessarily limited to: homemaker services; home-help therapy services; day-care services; home-delivered meal services; transportation services; foster care services; and health services.

(2) The cabinet is authorized to collect fees for services rendered pursuant to this section in accordance with a fee schedule adopted by the secretary for human resources. ***The*** [~~Such~~] fee schedule shall take into consideration the ability of the patient or client to pay for such services. Fees shall not be collected from any person who is "needy aged" as defined by KRS 205.010.

(3) The secretary ***may*** [~~is authorized to~~] utilize and promote available or potential community resources for the delivery of services to the aging and shall, when he deems appropriate, contract for services with local, community, private agencies, and individuals, including relatives of patients and clients, when such services would not otherwise be available without cost.

(4) The services to the aging authorized under this section are in addition and supplementary to any services to which the aging may be entitled under any other federal, state, or local governmental law, regulation, or program.

(5) The services to the aging authorized under this section shall be designed to meet the needs of the minority elderly as identified by the Cabinet for Human Resources pursuant to KRS 205.201.

Section 3. KRS 205.204 is amended to read as follows:

(1) The Cabinet for Human Resources, unless otherwise directed by an executive order of the Governor, is designated the agency of this state for the purpose of administering the Older Americans Act of 1965, Public Law 89-73, including all amendments thereto. ***In administering programs and allocating funds under the Older Americans Act, the cabinet shall design programs and allocate funds to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201.***

(2) The secretary for human resources ***may*** [~~is authorized to~~] promulgate such administrative regulations as are necessary to comply with any requirement imposed or required by federal law.

Section 4. KRS 205.217 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Case manager" means an employee of the area development district or an agency under contract with the area development district who shall assist any functionally impaired person in identifying and accessing the long term care services most appropriate to the individual's social and medical needs.

(b) "Functionally impaired person" means any person who is unable to perform without assistance any of the activities of daily living including, but not limited to dressing, bathing, toileting, transferring, or feeding, or any of the instrumental activities of daily living including but not limited to meal preparation, laundry, housecleaning, budgeting, and shopping.

(2) There shall be established within the Cabinet for Human Resources a Long-term Care Case Management Demonstration Program to consolidate and coordinate all services provided or funded by the cabinet with respect to long-term care, conducted in at least three (3) area development districts. This demonstration program shall serve as the focal point for the provision of all services provided to functionally impaired persons to assure that services are consistent with the following goals:

(a) That functionally impaired persons be allowed to live independently at home or with others as long as the citizen desires without requiring inappropriate or premature institutionalization;

(b) That services provided or funded by the cabinet promote independent living by functionally impaired persons and prevent or minimize illness or social isolation;

(c) That institutional services be used only as a last resort when in-home or community based support services are not available or are not adequate to meet the needs of functionally impaired persons;

(d) That a single entry point for all services for functionally impaired persons be available to all persons in need of information about or access to the services; and

(e) That the use of informal providers of care, such as friends and relatives of functionally impaired persons, be used as long as possible before paid services are utilized.

(3) The following programs and services shall be included in the Long-term Care Case Management Demonstration Program:

(a) Hospital-based long term care services including dual licensed beds, swing beds and physical rehabilitation services, skilled nursing facility services, intermediate care facility services, nursing facility services, home health services, and home and community based waiver services funded by the Kentucky medical assistance program;

(b) In-home and community based services for elderly persons funded under the Older Americans Act (42 U.S.C. Section 3001 et seq.) and Title XX of the Social Security Act (42 U.S.C. Sections 1397-1397f);

(c) Services provided under the home care program pursuant to KRS 205.460; and

(d) Personal care home services or domiciliary care funded by supplemental payments to persons receiving supplemental security income benefits pursuant to KRS 205.245.

(4) The Long-term Care Case Management Demonstration Program shall employ a system of case management to assure that appropriate services are provided to all persons using or applying for the services set forth in subsection (3) of this section, and that the services are consistent with the goals set forth in subsection (2) of this section. All persons applying for these services shall be assigned a case manager. The duties of the case manager shall include preparation of a general plan of care, based on the person's need for services, arranging placements or other needed services or equipment, coordination and management of the applicant through the eligibility process for these services, and reviewing each case on a periodic basis to assure the plan of care is being followed. Case management shall not include the determination of eligibility for medicaid covered services, long-term care facility preadmission reviews, level of care determinations for purposes of Medicaid reimbursement, or peer review activities. The general plan of care shall not replace a daily care plan prescribed by a physician for treatment of a person in a hospital or long-term care facility or receiving home health services. The general plan of care shall identify the categories of services or type of placement required and the providers of the services. Case managers shall serve as advocates for applicants for the services set forth in subsection (3) of this section, and shall interact with the existing administrative structure within the Cabinet for Human Resources to meet the goals stated in subsection (2) of this section. Patients

discharged from a hospital to a long-term care facility shall receive case management services in the hospital on a timely basis or immediately after admission to a long-term care facility. The goal of each case plan shall be the provision of services in the least restrictive setting designed to best meet the individual needs of the functionally impaired person. When persons are determined to need services to maintain independent living, but do not meet the financial or eligibility criteria for services, case managers shall attempt to ensure that services are provided from community resources, family member, or volunteers.

(5) The cabinet, through the Long-term Care Demonstration Program, shall provide access to information, counseling and screening as appropriate, for persons potentially in need of long-term care services without regard to the person's income, in order to assist functionally impaired persons in accessing available services. ***In administering the Long-Term Care Demonstration Program, the cabinet shall provide services to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201.*** The cabinet may charge a fee for providing information, counseling and screening services based on the client's ability to pay.

(6) The secretary for human resources may promulgate administrative regulations necessary to implement the Long-term Care Demonstration Program.

Section 5. KRS 205.460 is amended to read as follows:

(1) The cabinet shall fund, directly or through a contracting entity or entities, in each district, a program of essential services which shall have as its primary purpose the prevention of unnecessary institutionalization of functionally impaired elderly persons. The cabinet may use funds appropriated under this section to contract with public and private agencies, long-term care facilities, local governments, and other providers to provide core and essential services. The cabinet may provide core and essential services when such services cannot otherwise be purchased.

(2) In providing essential services, all existing community resources available to functionally impaired elderly persons shall be utilized. Additional services may be provided, but shall not be funded from funds appropriated under this section. Volunteers may be used where practicable to provide essential services to functionally impaired elderly persons. The cabinet or contracting entity shall provide or arrange for the provision of training and supervision of volunteers to ensure the delivery of quality services. The cabinet or contracting entity shall provide or arrange for appropriate insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer duties. ***In providing essential services under this section, the cabinet shall provide services to meet the needs of the minority elderly as identified by the cabinet pursuant to KRS 205.201.***

(3) Entities contracting with the cabinet to provide essential services under KRS 205.455 and this section shall provide a minimum of fifteen percent (15%) of the funding necessary for the support of program operations. No local match is required for assessment and case management. Local contributions, whether materials, commodities, transportation, office space, personal services, or other types of facilities services, or funds may be evaluated and counted toward the fifteen percent (15%) local funding requirements.

(4) When possible, funding for core services may be obtained under:

(a) The Comprehensive Annual Social Services Program plan under Title XX of the Social Security Act;

(b) The Medical Assistance Plan under Titles XVIII and XIX of the Social Security Act;

(c) The State Plan on Aging under the Older Americans Act; or

(d) Veteran's benefit programs under the provisions of 38 USCA Sections 1 et seq., as amended.

The cabinet may seek federal waivers if necessary to enable the use of funds provided through Titles XVIII and XIX of the Social Security Act for the provision of essential services.

(5) Providers contracting with the cabinet to provide essential services shall be responsible for the collection of fees and contributions for services in accordance with administrative regulations promulgated by the cabinet. Providers are authorized to assess and collect fees for services rendered in accordance with those administrative regulations. To help pay for essential services received, a functionally impaired elderly person shall pay an amount of money based on an overall ability to pay in accordance with a schedule of fees established by the cabinet. Fees shall reflect the degree to which the cabinet or contracting entity uses volunteers in the provision of services. Where essential services are provided by volunteers, fees shall only be assessed in an amount that will cover the cost of materials and other goods used in the provision of services. The cost of materials and other goods used by volunteers shall be reasonably similar to the cost of goods when paid

personnel are used. Fees shall not be required of any person who is "needy aged" as defined in KRS 205.010, however, voluntary contributions may be encouraged. This subsection shall not apply to programs utilizing federal funds when administrative regulations require contributions to revert to the original funding source.

Floor Amendments (Continued)

Floor Title Amendment to **SB 330**, by Representative Mason:

Amend printed copy of **SB 330** to amend the title to read as follows: "An act relating to environmental protection and declaring an emergency."

Floor Amendment No. 1 to **SB 330**, by Representative Mason:

Amend printed copy of **SB 330** on page 9, after line 8, insert the following:

"SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

All municipal solid waste landfills scheduled to close July 1, 1992, shall be allowed to continue to operate as they currently operate until July 1, 1993.

Section 8. Whereas it is vital to the protection of the environment and to human health to provide adequate disposal of solid waste throughout the Commonwealth, an emergency is declared to exist, and Section 7 of this Act shall become effective upon its passage and approval by the Governor."

Floor Amendment No. 4 to the Committee Substitute to **HB 831**, by Representative Brown:

Amend printed copy of **HB 831/HCS** on page 1, line 21, after the word "***county.***" by adding the following: "***Any charitable organization which conducts charitable gaming in a county containing a city of the first class shall meet the residency requirement of this subsection if it was registered with the county clerk prior to the effective date of this Act, and if it has maintained a place of business or operation in an adjacent county for one (1) year prior to engaging in charitable gaming in the county containing a city of the first class.***"

Floor Amendment No. 1 to **HB 790**, by Representative Bowling:

Amend printed copy of **HB 790** on page 7, after the line 17, by inserting the following:

"Section 5. KRS 138.450 is amended to read as follows:

As used in KRS 138.455 to 138.470, unless the context requires otherwise:

(1) "Dealer" means any person engaged in the sale of motor vehicles at retail;

(2) "Motor vehicle" means any vehicle that is propelled by other than muscular power and that is used for transportation of persons or property over the public highways of the state, except road rollers, mopeds, vehicles that travel exclusively on rails, and vehicles propelled by electric power obtained from overhead wires;

(3) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour;

(4) ***"Retail price" means the total consideration paid or to be paid for the motor vehicle at the time of purchase or at a later date, including all equipment and accessories, standard and optional, and transportation charges, as attested to in an affidavit signed by both the seller and the buyer minus any amount given by the dealer as a trade-in allowance on a motor vehicle previously registered in this state which is sold in this state, as attested to in an affidavit signed by both the seller and the buyer.***

(5) [~~(a)~~] For new motor vehicles "retail price" shall be ninety percent (90%) of the manufacturer's suggested retail price of the vehicle with all equipment and accessories, standard and optional, and transportation charges.[~~;~~]

(6) Any person who willfully and fradulently gives a false statement as to the total and actual cash consideration required in subsection (4) of this section shall be guilty of a Class D felony [~~Except as provided in subsection (5) of this section, "retail price" shall be determined as follows:~~

~~(b) For used motor vehicles whose values appear in the automotive reference manual prescribed by the Revenue Cabinet, "retail price" shall be the value given in such reference manual;~~

~~(c) For the older used motor vehicles whose values no longer appear in the automotive reference manual, "retail price" shall be determined as follows:~~

~~Number of Years Removed From Manual~~	~~Retail Price~~
~~1~~	~~75% of value of same make vehicle last appearing in manual~~
~~2~~	~~50% of value of same make vehicle last appearing in manual~~
~~3~~	~~25% of value of same make vehicle last appearing in manual~~
~~All Others~~	~~10% of value of same make vehicle last appearing in manual;~~

~~(d) In the case of used motor vehicles previously registered in this state, which are sold in this state, a trade-in allowance equal to the "retail price" of the vehicle taken in trade shall be deducted in computing the "retail price" of the vehicle sold.~~

~~(e) If a holder of a U-Drive-It permit transfers a vehicle which he has registered as a U-Drive-It within one hundred eighty (180) days of such registration, and if less than five thousand (5000) miles have been placed on the vehicle during the period of its registration as a U-Drive-It, then the "retail price" of such vehicle shall be the same as the retail price determined in subsection (b) or (c) of this section computed as of the date on which the vehicle is transferred except that the provisions of subsection (d) of this section shall not apply.~~

~~(5) "Wrecked motor vehicle" means any motor vehicle damaged by any cause except wear and tear or rust, including but not limited to damage caused by collision, fire, flood, wind or vandalism. Any other provision of subsection (4) notwithstanding, the retail price of a wrecked motor vehicle shall be the retail price as determined without reference to this subsection minus the average of the repair estimates submitted to the county clerk. The owner of the wrecked motor vehicle shall obtain a minimum of two (2) repair estimates from disinterested persons regularly engaged in the repair of motor vehicles and submit them to the county clerk~~].

Section 6. KRS 138.460 is amended to read as follows:

(1) On and after July 1, 1990, a tax levied upon its retail price at the rate of six percent (6%) shall be paid on the use in this state of every motor vehicle, except those exempted by KRS 138.470, at the time and in the manner provided in this section. [~~In the case of trucks of gross weight in excess of ten thousand (10,000) pounds, the tax shall be levied upon ninety percent (90%) of the retail price of the vehicle.~~]

(2) The tax shall be collected by the county clerk or other officer with whom the vehicle is required to be registered:

(a) When he collects the registration fee for registering and licensing a motor vehicle the first time it is offered for registration in this state;

(b) Or upon the transfer of ownership of any motor vehicle previously registered in this state.

(3) The tax collected by the county clerk under this section shall be reported and remitted to the Revenue Cabinet on forms provided by the cabinet and on such forms as the cabinet may prescribe. The county clerk shall for his services in collecting the tax be entitled to retain an amount equal to three percent (3%) of the tax collected and accounted for.

(4) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, or transfer the ownership of any motor vehicle previously registered in this state, unless the owner or his agent pays the tax levied under this section in addition to the transfer, registration, and license fees.

(5) When a resident of this state offers a motor vehicle for registration for the first time in this state which was registered in another state that levied a tax substantially identical to the tax levied under this section, such person shall be entitled to receive a credit against the tax imposed by this section equal to the amount of tax paid to the other state. No credit shall be given under this subsection for taxes paid in another state if that state does not grant similar credit for substantially identical taxes paid in this state.

(6) No county clerk or other officer shall register or issue any license tags to the owner of any motor vehicle subject to this tax, when the vehicle is then being offered for registration for the first time, unless the seller or his agent delivers to the county clerk or other officer a certified or photostat copy of the manufacturer's price label for passenger cars or a certified or photostat copy of the itemized billing to the customer in the case of all other motor vehicles; and the clerk shall attach the certified or photostat copy to the copy of the certificate of registration and ownership mailed to the cabinet.

(7) Notwithstanding the provisions of KRS 138.450(4) ***and (5)***, in no case shall the tax be less than five dollars ($5) upon first registration of or any transfer of ownership of a motor vehicle in this state, except where such vehicle is exempt from tax under KRS 138.470.

(8) Where a motor vehicle is sold by a dealer in this state and the purchaser returns the vehicle for any reason to the same dealer within sixty (60) days for a vehicle replacement or a refund of the purchase price, the purchaser shall be entitled to a refund of the amount of usage tax received by the Revenue Cabinet as a result of the registration of the returned vehicle. In the case of a new motor vehicle, the registration of the returned vehicle shall be canceled and the vehicle shall be considered to have not been previously registered in Kentucky when resold by the dealer.

(9) When a manufacturer refunds the retail purchase price or replaces a new motor vehicle for the original purchaser within ninety (90) days because of malfunction or defect, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the first registration. No person shall be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the manufacturer identifying the vehicle that was replaced and stating the date of replacement.

(10) Notwithstanding the time limitations of subsections (8) and (9) of this section, when a dealer or manufacturer refunds the retail purchase price or replaces a motor vehicle for the purchaser as a result of formal arbitration or litigation, or, in the case of a manufacturer, because ordered to do so by a dispute resolution system established under KRS 367.865 or 16 C.F.R. 703, the purchaser shall be entitled to a refund of the amount of motor vehicle usage tax received by the Revenue Cabinet as a result of the registration. No person shall be entitled to a refund unless he shall have filed with the Revenue Cabinet a report from the dealer or manufacturer identifying the vehicle that was replaced."

Motions, Petitions and Communications (Continued)

Representative Noland moved the adoption of the following **HR 232**:

HR 232, A RESOLUTION celebrating the one hundred and forty-eight years Owsley County has been a part of the Commonwealth of Kentucky, upon the occasion of Kentucky's Bicentennial Year.

WHEREAS, parts of Breathitt, Clay, and Estill Counties were combined to form Owsley County, effective June 1, 1843; and

WHEREAS, it was the ninety-sixth county created and was named in honor of Governor William Owsley who served as Governor of the Commonwealth from 1844-1848; and

WHEREAS, Owsley County is located in the southeastern Kentucky River area and Booneville serves as the county seat; and

WHEREAS, as Kentucky approaches its two hundredth anniversary of statehood, it is only fitting and appropriate to honor Owsley County's acceptance into the Commonwealth; and

WHEREAS, geography has always had an active influence on the lives of Kentuckians; and

WHEREAS, the varying topography within the state created the diversity that has been a part of Kentucky life from the beginning; and

WHEREAS, in many ways this diversity has served the state well; and

WHEREAS, it is appropriate that the motto of our great state is "United We Stand, Divided We Fall" because with minor exceptions, that thought has been central to the survival of Kentucky throughout its history from the tumultuous frontier days to the divisions created by the Civil War, to the pressures of changing economic conditions; and

WHEREAS, through all the peaks and valleys, Kentuckians have drawn upon their inner strengths to survive and prosper;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the citizens of Owsley County upon the occasion of Owsley County's one hundred and forty-eighth year as a part of the Commonwealth, in conjunction with the occasion of Kentucky's Bicentennial Year.

Section 2. That this honorable body commends the people of Owsley County for their dedication to enhancing the positive image of the Commonwealth and the preservation of historical and cultural aspects of Kentucky, and encourages all the citizens of Owsley County to join in the observance of Kentucky's Bicentennial Celebration on June 1, 1992.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Owsley County Commissioner, Owsley County Court House, Booneville, Kentucky 41314.

HR 232 was adopted by voice vote.

Representative Richards moved that the vote by which **HB 776** was passed be reconsidered. Agreed.

Representative Richards moved that the vote by which Floor Amendment No. 1 to **HB 776** was adopted be reconsidered. Agreed.

Representative Richards moved that **HB 776** be placed in the Orders of the Day for March 20, 1992. Agreed.

Representative B. Smith moved the adoption of the following **HCR 237**:

HCR 237, A CONCURRENT RESOLUTION urging the secretary of the Transportation Cabinet to designate Kentucky Routes 70, 101, and 259 as scenic corridors.

WHEREAS, Kentucky Routes 70, 101, and 259 serve as feeder routes to Mammoth Cave National Park and Nolin River Lake; and

WHEREAS, the state of Kentucky is extremely fortunate to have within its boundaries two such magnificent tourist attractions; and

WHEREAS, the communities along these routes rely heavily upon tourism dollars, and would benefit greatly from any attempt to increase tourism efforts; and

WHEREAS, a designation of this nature would further inform the traveling public of the natural attractions that lie along these corridors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the secretary of the Transportation Cabinet be urged to designate Kentucky Route 70, Kentucky Route 101, and Kentucky Route 259 as scenic corridors from their origins at Smiths Grove exit on Interstate 65 and the Cave City exit on Interstate 65 to their northern reaches, not to extend past Mammoth Cave National Park nor Nolin River Lake.

Section 2. That the Clerk of the Senate shall forward a copy of this Resolution to the Secretary of the Transportation Cabinet.

HCR 237 was adopted by voice vote.

Representative K. Harper moved the adoption of the following **HR 240**:

HR 240, A RESOLUTION honoring the late Dr. Sean MacBride and supporting his principles.

WHEREAS, Dr. Sean MacBride of Dublin, Ireland, outlined the MacBride Principles to seek to guarantee citizens of Northern Ireland equal access to employment; and

WHEREAS, these principles present a set of nine equal opportunity guidelines as a constructive and nonviolent means of addressing a major cause of conflict and dissension; and

WHEREAS, the MacBride Principles were first proposed in 1984 by four leading figures in the field of social equality in Ireland; and

WHEREAS, these principles were modeled after the Sullivan Principles for business firms operating in South Africa; and

WHEREAS, the MacBride Principles enjoy broad support among civic organizations, governmental bodies, pension funds, political parties and church groups, including the American Baptist Convention; and

WHEREAS, federal MacBride Principles legislation has been introduced in the House of Representatives and Senate of the United States Congress and legislation has been introduced and passed in twelve states;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby express its support for the concepts of civil rights, human rights, and equal employment opportunity, that are the essence of the MacBride Principles, and honors their author, Dr. Sean MacBride.

Section 2. That the House of Representatives commends the MacBride Principles to the Kentucky Congressional delegation and urges them to support hearings regarding the federal legislation introduced by Congressman Hamilton Fish and Senators Frank Lautenberg and Al D'Amato.

Section 3. That the House of Representatives asks the state retirement systems of the Commonwealth of Kentucky to consider the MacBride Principles when making investments in United States corporations located in Northern Ireland.

Section 4. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to each member of Kentucky's Congressional delegation.

HR 240 was adopted by voice vote.

Representative Strong moved the adoption of the following **HR 235**:

HR 235, A RESOLUTION in honor of Marguerite Bray.

WHEREAS, Marguerite Bray, a native of Trimble County, Kentucky, has resided in Frankfort, Kentucky since 1958; and

WHEREAS, Marguerite Bray is eighty-three years young and has the good fortune of having six sons, twenty grandchildren, and fourteen great-grandchildren; and

WHEREAS, Marguerite Bray has contributed eighteen years of service as public relations aide in the House gallery;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body expresses its deep appreciation to Marguerite Bray for her eighteen years of faithful service in the House gallery.

Section 2. That Marguerite Bray has been an inspiration to all who have worked alongside her in the House gallery.

Section 3. That the Clerk of the House of Representatives transmit a copy of this Resolution to Mrs. Marguerite Bray.

HR 235 was adopted by voice vote.

Representative Strong moved that a call of the roll be taken to show co-sponsors of **HR 235**.

On the roll call the vote was yeas 100—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Long moved the adoption of the following **HR 241**:

HR 241, A RESOLUTION honoring the Shelby County High School Lady Rockets basketball team.

WHEREAS, the Lady Rockets of Shelby County have secured a berth in the girls' Sweet Sixteen State Basketball Tournament by winning the eighth region; and

WHEREAS, this is the Lady Rockets' third appearance and first State Tournament under head coach James Wright; and

WHEREAS, Shelby County's road to the Sweet Sixteen has been marred by injuries to Kate Etheredge, Kolisha Thomas, Kathy Woods and Whitney Jones; and

WHEREAS, the Lady Rockets did not quit in the face of adversity as they put together a record of twenty-eight wins and five losses; and

WHEREAS, the Lady Rockets have a strong inside game with junior center Kim Cunningham averaging twenty-three points and thirteen rebounds a contest;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby congratulate and honor the Shelby County High School Lady Rockets basketball team for winning the eighth region and earning a trip to the girls' Sweet Sixteen.

Section 2. That the House of Representatives does commend the guidance and support provided the Lady Rockets by head coach James Wright and his assistants Sally Zimmerman, Kelly King, and Paul Smith; principal Walter Hawkins; superintendent Dr. Leon Mooneyhan; and the parents of the Lady Rockets.

Section 3. That the Clerk of the House of Representatives is directed to transmit six copies of this Resolution to coach James Wright, Shelby County High School, 1701 Frankfort Road, Box 69, Shelbyville, Kentucky 40066-0069.

HR 241 was adopted by voice vote.

The following member filed a request to have his name added as co-sponsor to a Bill: **HB 780**, Representative Casebier.

Representative Deskins moved that **HB 406** be withdrawn. Agreed.

Representative Collins moved the adoption of the following **HR 236**:

HR 236, A RESOLUTION adjourning in memory of Johnson County Sheriff, Cecil "Gene" Cyrus.

With deepest respect, we pay homage and tribute to Sheriff Cecil "Gene" Cyrus.

WHEREAS, Sheriff Cecil "Gene" Cyrus is a first cousin of our esteemed colleague, Representative Ronald R. Cyrus of Flatwoods; and

WHEREAS, Sheriff Cecil "Gene" Cyrus, 56, of Johnson County, was killed in the line of duty yesterday, March 18, 1992; and

WHEREAS, Sheriff Cecil "Gene" Cyrus is the second Kentucky sheriff in six weeks to be killed while serving an arrest warrant, and the third Kentucky lawman slain this year; and

WHEREAS, Sheriff Cecil "Gene" Cyrus, serving his third four-year term, had a reputation as a brave law officer and was regarded as a leader for the sheriffs of Kentucky; and

WHEREAS, Cecil "Gene" Cyrus was a church trustee of the Toms Creek Freewill Baptist Church and was known as a big-hearted man who only wanted to help people but did not let his christian principles interfere with his elected duty;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby express its profound sense of loss upon the slaying of Sheriff Cecil "Gene" Cyrus and extends to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in honor and memory of Sheriff Cecil "Gene" Cyrus, and with praise for his fearless devotion to upholding the laws of our great Commonwealth.

Section 3. That the Clerk of the House of Representatives is directed to transmit five copies of this Resolution to Mrs. Cecil Cyrus, Johnson County Sheriff's Office, 342 Second Street, Paintsville, Kentucky 41240.

HR 236 was adopted by voice vote.

Representative Bryant moved the adoption of the following **HR 233**:

HR 233, A RESOLUTION relating to use of the Armed Services Vocational Aptitude Battery testing program in Kentucky's schools.

WHEREAS, it is the responsibility of the Commonwealth and its school districts to provide all the quantifiable information needed by students in determining educational and vocational pursuits; and

WHEREAS, the Armed Forces of the United States utilizes the Armed Services Vocational Aptitude Battery (ASVAB) to determine the capabilities of young people entering the military service; and

WHEREAS, the ASVAB is offered by the Department of Defense in schools throughout the Commonwealth of Kentucky at no cost; and

WHEREAS, the ASVAB provides one of the best vocational aptitude indexes in the United States with reliability coefficients of over 90% in both the academic and occupational composites; and

WHEREAS, during the past several years Kentucky's educational system has greatly increased the use of the ASVAB; and

WHEREAS, the results of the ASVAB cannot only be used to determine the vocational and academic aptitudes of students but also provide counselors and teachers with information that is vital to guiding and facilitating student learning;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its approval of the use of the Armed Services Vocational Aptitude Battery by the secondary schools of Kentucky and does further encourage all school districts to consider its use as a reliable, cost-saving method of measuring students' vocational and academic aptitudes.

Section 2. That the House of Representatives recognizes that the administration of vocational aptitude and educational assessment instruments such as the Armed Services Vocational Aptitude Battery does constitute "actual school work" for purposes of KRS 158.060, which requires six hours of actual school work in a school day.

Section 3. That the Clerk of the House of Representatives shall cause a copy of this Resolution to be forwarded to the Commissioner of Education and to the State Board for Elementary and Secondary Education.

HR 233 was adopted by voice vote.

Representative Deskins moved that the vote to refuse to concur in Senate Amendment No. 1 to **HB 472** be reconsidered. Agreed.

Representative Deskins moved that **HB 472** be placed in the Orders of the Day for March 20, 1992. Agreed.

Representative Gedling moved the adoption of the following **HR 187**:

HR 187, A RESOLUTION adjourning in honor of Elroy Bryan West of Irvington and Phillip Lee West of Pleasure Ridge Park.

With deepest respect, we pay homage and tribute to Elroy and Phillip West.

WHEREAS, Elroy Bryan West and his son, Phillip, were prematurely taken from us by cancer, and crossed these earthly bounds within five months of each other; and

WHEREAS, Elroy Bryan West never knew that his son, Phillip, was diagnosed with the same disease a few months after he died on September 6, 1991; and

WHEREAS, Phillip Lee West was laid to rest on February 6, 1992, much to the grief of his wife, Kathy, and mother, Norma West, widow of Elroy Bryan West, and other family members; and

WHEREAS, Elroy Bryan West was a very special man, loved by all and known by the titles of father, grandfather, brother, uncle, husband, and friend who shared his family's dreams and problems together;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body does hereby express its profound sense of loss upon the passing of Elroy and Phillip West and extends to their family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day it does so in loving memory and honor of Elroy and Phillip West.

Section 3. That the Clerk of the House of Representatives is directed to transmit one copy each of this Resolution to Kathy West and Norma West, 5504 Mariemont Road, Louisville, Kentucky 40258.

HR 187 was adopted by voice vote.

Representative Little moved the adoption of the following **HR 194**:

HR 194, A RESOLUTION urging the secretary of the Transportation Cabinet to designate United States Route 23, "The Country Music Highway."

WHEREAS, United States Route 23 from Ashland, Kentucky, to the Virginia State Line traverses what could be considered the "Heart of Appalachia"; and

WHEREAS, country music superstars such as The Judds, Ricky Skaggs, Keith Whitley, Loretta Lynn, Crystal Gayle, Dwight Yoakam, Patty Loveless, and Gary Stewart have origins in communities along or near to this highway; and

WHEREAS, the music they so wonderfully create often symbolizes a way of life found only in the ruggedly beautiful terrain of the Appalachian region; and

WHEREAS, a designation of this nature is extremely appropriate and justified and will serve as a reminder of the unsung riches eastern Kentucky has within its boundaries;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the secretary of the Transportation Cabinet be urged to designate United States Route 23 from Ashland, Kentucky, to the Virginia State Line, "The Country Music Highway."

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this Resolution to the secretary of the Transportation Cabinet.

HR 194 was adopted by voice vote.

Representative Ward moved the adoption of the following **HR 239**:

HR 239, A RESOLUTION urging Louisville's corporations and individuals to support the efforts of Heart Strings, the AIDS Memorial Quilt, and You: "An Event in Three Acts."

WHEREAS, the AIDS virus does not distinguish among race, sex, or national origin — it threatens us all; and

WHEREAS, HEART to HEART/AIDS Support Services and the community of Louisville are about to embark on the most exciting and ambitious AIDS focused project ever to be executed in the United States; and

WHEREAS, in October, 1989, Louisville was host to HEART STRINGS: The National Tour, a two hour musical review that dealt directly with the many aspects of the AIDS crisis; and

WHEREAS, this 26-city tour was an overwhelming success, raising over $3.1 million for people living with AIDS; and

WHEREAS, Design Industries Foundation for AIDS (DIFFA) has agreed, once again, to underwrite this worthwhile venture; and

WHEREAS, two national AIDS organizations have combined their efforts to produce the largest AIDS fund raising event in history, to be called HEART STRINGS, the AIDS Memorial Quilt, and You: "An Event in Three Acts"; and

WHEREAS, the 1992 Tour will travel to 35 cities around the country, involving thousands of volunteers, and educating dozens of communities, and reaching the projected goal of $5 million; and

WHEREAS, proceeds from "An Event in Three Acts" will benefit The Community Health Trust, Louisville's most active organization dealing with direct services to people living with AIDS (plus, those HIV positive); and

WHEREAS, the goal is to create an unprecedented impact in Louisville by recruiting hundreds of volunteers, and raising $200,000, educating everyone who comes in contact with "An Event in Three Acts," on any level, about AIDS; and

WHEREAS, this many-faceted event will offer the entire community a chance to get involved in the fight against AIDS;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives urges the corporations and individuals in Louisville to support the goal of the "Heart Strings, the AIDS Memorial Quilt, and You: An Event in Three Acts" to be held April 10-19, 1992.

Section 2. That this honorable body commends Heart to Heart Executive Director, Kate Clarke, for her leadership and tireless effort towards Louisville's production of Heart Strings, the AIDS Memorial Quilt, and You: "An Event in Three Acts," and Community Health Trust President, Reverend Dee Dale for her dedication to providing direct services to people living with AIDS, plus those HIV positive.

Section 3. That the Clerk of the House of Representatives is directed to transmit two copies of this Resolution to Ms. Kate Clarke, AIDS Service Center, 810 Barret Avenue, Louisville, Kentucky 40204 and the Reverend Dee Dale, AIDS Service Center, 810 Barret Avenue, Louisville, Kentucky 40204.

HR 239 was adopted by voice vote.

Representative Donnermeyer moved the adoption of the following **HR 238**:

HR 238, A RESOLUTION honoring Bev Smith from Silver Grove, a member of the Morehead State University Lady Eagles' 1,000 point club.

WHEREAS, Bev Smith is a junior, majoring in Government, at Morehead State University, and an outstanding center on the lady Eagles' basketball team; and

WHEREAS, Bev Smith became the twelfth Lady Eagle to score 1,000 points, on February 10, 1992, in a hard fought loss to Middle Tennessee; and

WHEREAS, in her sophomore season Bev Smith earned second team All-Ohio Valley Conference honors, leading her team with a 16.9 point scoring average; and

WHEREAS, Bev Smith was named to the 1989-90 freshman All-Ohio Valley Conference team after being redshirted with a knee injury in the 1988-89 season; and

WHEREAS, Bev Smith had a career high twenty-six points against Kent State and has pulled down fourteen rebounds three different times;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this venerable institution does hereby congratulate and honor Bev Smith upon becoming a member of the Morehead State University Lady Eagle basketball team's 1,000 point club.

Section 2. That the House of Representatives wishes Bev Smith and her Lady Eagle teammates good luck in the 1992-93 season.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Bev Smith, Womens Basketball Program, Morehead State University, Morehead, Kentucky 40351.

HR 238 was adopted by voice vote.

Representative K. Harper moved the rules be suspended for the purpose of recording votes. Agreed.

Representative K. Harper moved that he be recorded as voting "yea" on **HB 627** and **HB 725**. Agreed.

Representative Freibert moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Freibert moved that her vote be changed from "yea" to "nay" on concurrence with Senate Amendment and passage thereof on **HB 458**. Agreed.

Representative Bowling moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bowling moved that he be recorded as voting "nay" on **HB 753**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "yea" to "nay" on **HB 753**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **SB 189**. Agreed.

Representative Worthington moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Worthington moved that he be recorded as voting "yea" on **HB 780**, **HB 291** and **HB 852**. Agreed.

Representative Collins moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Collins moved that he be recorded as voting "yea" on **SB 189**. Agreed.

Representative Richardson moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Richardson moved that he be recorded as voting "yea" on **HB 479** and **SB 205**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 653**, **HB 39** and **HB 291**. Agreed.

Representative Ward moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Ward moved that he be recorded as voting "yea" on **HB 896**, **HB 943**, **HCR 159**, **HCR 171**, **HCR 167**, **SB 13**, **SB 119**, **SB 47** and **SB 341**. Agreed.

Representative Strong moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that his vote be changed from "yea" to "nay" on **HB 753**. Agreed.

Announcements

The following meetings were announced:

Banking and Insurance, Room 131, March 19, 1992, upon adjournment.

Education, Room 149, March 19, 1992, upon adjournment.

Central Kentucky Caucus, 6:00 p.m., March 19, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, March 20, 1992.

On the roll call the vote was yeas 77—Ackerson, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Coleman, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Hancock, K. Harper, Jensen, Johnson, Jones, Kerr, Lear, Little, Lyne, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Ward, Williams, Worthington, Yates, Zimmerman. Nays 4—Bronger, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.

FRIDAY, MARCH 20, 1992

FORTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. Mark Hopper, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Curd and R. Smith.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 19, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 181**, **SB 217**, **SB 365**, **SB 382**, **SCR 123**, **HB 333**, with Senate Amendment, **HB 434**, with Senate Amendment, **HB 583**, with Senate Amendment, **HB 628**, with Senate Amendment, **HB 674**, with Senate Amendment, **HB 457**, **HB 462**, **HB 497**, **HB 613**, **HJR 23** and **HJR 124**. (Time: 10:02 a.m.)

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 17**, **SB 32**, **SB 47**, **SB 119**, **SB 189** and **SB 190** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 10:04 a.m.)

HB 17 was delivered to the Senate and signed by the President. Delivered to the Governor on March 20, 1992 at 11:27 a.m.

Introduction of Bills and Resolutions

HR 242, by Representatives LeMaster and Arnold: A RESOLUTION honoring the Nicholas County High School boys' basketball team.

HR 243, by Representative Long: A RESOLUTION adjourning in honor of the Kentucky Heritage Quilt Society.

HR 244, by Representative Hourigan: A RESOLUTION honoring the Marion County High School boys' basketball team.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Business Organizations and Professions: **SB 350**, **SB 373**

Cities: **SB 385**

State Government: **SB 418**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Business Organizations and Professions: **SB 350**, **SB 373**, **SB 199**, **SB 321**, **SB 337**, **SB 319**

Judiciary: **SB 8**

Cities: **SB 158**

Elections and Constitutional Amendments: **SB 221**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Business Organizations and Professions: **SB 157**

Report of Committees

The Committee on Banking and Insurance reported **HB 754**, **SB 242**, **SB 270**, **SB 291**, with Committee Substitute attached thereto, and **SB 311** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 754, AN ACT relating to group self-insurers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "policy" means any contract or agreement between the group self-insurance trust fund and its members which describes the risks assumed by the trust fund and the terms and conditions thereof.

(2) Every group self-insurer issuing policies either on property, casualty, or automobile coverages according to the provisions of KRS 342.350(4) or KRS 304.1-120(6) shall, as a condition of doing business in this Commonwealth, give a copy to all applicants for group self-insurance coverage, and also have on file for public inspection at the Department of Insurance, a summary disclosure form containing a simple explanation of the major coverages and exclusions of these policies together with a recitation of typical factors considered in cancellation and nonrenewal situations and contingent liability to which members of the group may be subjected. Each summary disclosure form shall provide notice in bold face letters that the group self-insurance member shall read the policy for complete details, and the disclosure form shall not be construed to replace any provision of the policy itself. In the event of any conflict between the policy and the disclosure form, the provisions of the policy shall prevail.

(3) In the event any group self-insurer does not have or maintain the necessary minimum surplus funds, for each line of business in which it is engaged, required of a domestic mutual insurer as set forth in KRS Chapter 304, Subtitle 24, or if the group self-insurer is not a member of a validly organized and functioning guaranty association equal in duty and obligation to that required of such domestic mutual insurer, then that fact shall be prominently set forth in the disclosure material.

(4) The commissioner is authorized to adopt administrative regulations exempting any line of business or type of coverage for which the commissioner finds that disclosure under this section is unnecessary for the protection of the public.

(5) Any group self-insurer which fails to file a summary disclosure form with the Department of Insurance as required by subsection (2) of this section shall forfeit to the Commonwealth of Kentucky five hundred dollars ($500) per day for each day on or after September 1, 1992, that its summary disclosure form is not on file.

(6) In addition to the penalty provided in subsection (5) of this section, a violation of subsection (2) of this section shall also constitute an unfair claims settlement practice under KRS 304.12-230.

Section 2. KRS 304.1-120 is amended to read as follows:

No provision of this code shall apply to:

(1) Fraternal benefit societies (as identified in Subtitle 29), except as stated in Subtitle 29.

(2) Nonprofit hospital, medical-surgical, dental and health service corporations (as identified in Subtitle 32) except as stated in Subtitle 32.

(3) Burial associations (as identified in KRS Chapter 303), except as stated in Subtitle 31.

(4) Assessment or cooperative insurers (as identified in KRS Chapter 299), except as stated in KRS Chapter 299.

(5) Insurance premium finance companies (as identified in Subtitle 30), except as stated in Subtitle 30.

(6) A group or association of health facility and health services institutions subject to the certificate of need and licensure provisions of KRS Chapter 216B or a group of Kentucky for profit corporations (as defined in KRS Chapter 271B), or the members of a bona fide association, composed of any number of members, who join together to self insure against professional liability or public liability risks for bodily injury or property damage, to anyone except employees for claims arising out of their employment of the members of such group, which arises out of the operation of institutions or other legal entities by members of the group and who comply with the following conditions:

(a) Establishment of a professional or public liability risk management trust fund to provide adequate coverage for claims made against members of the fund for professional liability or public liability risks;

(b) Establishment of a comprehensive loss prevention and risk management program coordinated with an effective claims management system for members of the group; [~~and~~]

(c) Filing with the department, on a form to be provided by the department, a certification setting forth the establishment of such a trust fund, the date upon which the trust fund is to become effective, the identity of the members of the trust fund, and a copy of the programs and systems established for the members of the trust fund***; and***

(d) Filing with the department, in the form prescribed by the department, a statement of financial condition audited by a certified public accountant which complies with generally accepted accounting principles as set forth in the Financial Accounting Standards Board's Statement Number 60 and Governmental Accounting Standards Board's Statement Number 10 and an actuarial study by a qualified actuary regarding reserves for known and incurred but not reported claims and expenses associated therewith.

SB 242, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 99 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Transaction of unauthorized insurance prohibited by KRS 304.11-030, or assisting or in any manner aiding, directly or indirectly, in the procurement of a contract of unauthorized insurance prohibited by KRS 304.11-030, is a class D felony.

SECTION 2. A NEW SECTION OF SUBTITLE 33 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The court shall, upon the commissioner's motion, order that an administrator, as defined in KRS 304.9-051, and an insurer shall be treated as a single entity and liquidated pursuant to this subtitle upon showing by the commissioner that:

(1) The administrator had the right to market all or substantially all of the insurer's business;

(2) The administrator had substantial control of the rates charged by the insurer; and

(3) The administrator had substantial control of the investigation or settlement of all or substantially all of the claims against the insurer.

SECTION 3. A NEW SECTION OF SUBTITLE 11 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) When it may appear to the commissioner that any person has engaged in, is engaging in, or is about to engage in any act, practice, or transaction which is or would be unauthorized insurance in violation of this subtitle, the commissioner may, in his discretion, issue an order prohibiting the person from committing the act, practice, or transaction, or revoking or suspending a certificate of authority or license, imposing civil penalties, or both, if the commissioner deems it to be appropriate and in the public interest or for the protection of policyholders or citizens of this state.

(2) In situations where persons would be entitled to a hearing prior to an order, or where an action would be required to enjoin any act, practice, or transaction described in subsection (1) of this section, the commissioner may issue an order pursuant to subsection (1) of this section. The commissioner's order

shall be effective without a hearing, but the person to whom the order is directed may request a hearing within twenty (20) days of the date the order is mailed or delivered to that person. Failure to request a hearing shall be a waiver of any provision of law for the hearing. The commissioner's order shall contain or shall be accompanied by a notice of the opportunity for a hearing which clearly explains that the hearing must be requested within the time specified.

(3) If the commissioner desires to enforce an order issued pursuant to this section, he shall do so by an action in the Franklin Circuit Court. The action is in addition to any other means of enforcement of his order or the provisions of this subtitle available to the commissioner.

Section 4. KRS 304.2-340 is amended to read as follows:

(1) The commissioner or his authorized designee conducting a hearing, examination, or investigation by his authority shall have power to subpoena witnesses, compel their attendance, administer oaths, examine any person under oath relative to the subject of the hearing, examination, or investigation, and to compel any person to subscribe to his testimony after it has been correctly reduced to writing, and, in connection therewith, to require the production of any books, papers, records, correspondence, or other documents which he deems relevant to the inquiry.

(2) A subpoena issued pursuant to this section shall have the same force and effect and shall be served in the same manner as if issued from a court of record ***or in the manner prescribed in KRS 304.2-120***.

(3) If any individual refuses to comply with ***a*** [~~any such~~] subpoena or to testify as to any matter concerning which he may be lawfully interrogated, the Circuit Court of the county ***where the*** [~~wherein such~~] examination, investigation, or hearing is being conducted or of the county ***where the*** [~~wherein such~~] individual resides, on the commissioner's application may, after summary hearing, issue an order requiring ***the*** [~~such~~] individual to comply with the subpoena and to testify; and failure to obey ***the*** [~~such an~~] order may be punished by the court as a contempt [~~thereof~~]. ***If a person refuses to comply with a subpoena or order, or testify as to any matter concerning which that person may be lawfully interrogated, in addition to the proceedings described in this subsection, the person shall also be subject to suspension or revocation of license or certificate of authority, imposition of civil penalties as set forth in KRS 304.99-020, or both.***

(4) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a Circuit Court, but no officer, director, agent, or employee of an insurer or person being examined or investigated shall be entitled to witness or mileage fees.

(5) Any individual ***willfully*** [~~wilfully~~] testifying falsely under oath as to any material to ***an*** [~~any such~~] examination, investigation, or hearing shall upon conviction [~~thereof~~] be guilty of perjury.

SECTION 5. A NEW SECTION OF SUBTITLE 14 KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, "health insurer" means any insurance company, health maintenance organization, self-insurer, multiple employer welfare arrangement, and any corporation subject to Subtitle 32 of this chapter that is doing, has done, or purports to do business in this Commonwealth for the purpose of offering or providing health insurance benefits to residents of the Commonwealth.

(2) Any person covered by a policy or contract issued by a health insurer shall be responsible for payment of premiums, co-payments, and noncovered services pursuant to the policy or contract, but shall otherwise be held harmless from liability for any claims filed with the health insurer for covered services or any other obligations of the health insurer.

Section 6. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;

(2) Subtitle 2 — The Insurance Commissioner;

(3) Subtitle 7 — Investments;

(4) Subtitle 8 — Administration of Deposits;

(5) Subtitle 12 — Trade Practices and Frauds;

(6) Subtitle 25 — Continuity of Management;

(7) Subtitle 33 — Rehabilitation and Liquidation;

(8) Subtitle 18 — KRS 304.18-110, 304.18-120 — Group Conversion and KRS 304.18-045;

(9) Subtitle 4 — Fees and Taxes;

(10) Subtitle 99 — Penalties; and

(11) Subtitle 14 — KRS 304.14-500 to 304.14-560 ***and Section 5 of this Act***.

Section 7. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of Chapter 304, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 — Scope of Code;

(2) Subtitle 2 — The Insurance Commissioner;

(3) Subtitle 4 — Fees and Taxes;

(4) Subtitle 5 — Kinds of Insurance; Limits of Risk; Reinsurance;

(5) Subtitle 12 — Trade Practices and Frauds;

(6) Subtitle 14 — KRS 304.14-500 to 304.14-560 ***and Section 5 of this Act***;

(7) Subtitle 25 — Continuity of Management;

(8) Subtitle 33 — Rehabilitation and Liquidation; and

(9) Subtitle 99 — Penalties.

SB 270, AN ACT relating to insurance license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, [~~or~~] county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective [~~January 1 or~~] July 1 of each year on a prospective basis only and shall file with the Commissioner of Insurance at least ***one-hundred (100)*** [~~sixty (60)~~] days prior to the effective date, a copy of all ordinances and amendments [~~thereto~~] which impose any such license fee or tax. ***No less than eighty-five (85) days prior to the effective date,*** the Commissioner of Insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities, [~~or~~] county, or urban-county governments which have elected to impose ***the*** [~~such~~] license fees or taxes and the current amount of ***the*** [~~such~~] license fee or rate of tax.

(2) Any license fee or tax imposed by [~~such~~] a city, [~~or~~] county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of ***the*** [~~such~~] premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of ***the*** [~~such~~] city, [~~or~~] county, or urban-county government.

(3) Any license fee or tax imposed by [~~such~~] a city, [~~or~~] county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by ***the*** [~~such~~] company within each calendar quarter on risks located within the corporate limits of the city, [~~or~~] county, or urban-county government on those classes of business which ***the*** [~~such~~] company is authorized to transact, less all premiums returned to policyholders. ***In determining***

the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro-rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. [~~; however,~~] Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or ***the*** death ***of their employees,*** caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the Commissioner of Insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city***,*** [~~or~~] county***,*** or urban-county government, at the expense of the requesting city***,*** [~~or~~] county***,*** or urban-county government, which shall be paid in advance by ***the*** [~~such~~] city***,*** [~~or~~] county***,*** or urban-county government to the Department of Insurance.[~~,~~] The Department of Insurance shall examine or cause to be examined by contract with qualified auditors***,*** the books or records of the insurance companies or agents subject to ***the*** [~~such~~] fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of ***the*** [~~such~~] examination shall be reported to ***the*** [~~such~~] city***,*** [~~or~~] county***,*** or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city***,*** [~~or~~] county***,*** or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2), and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city***,*** [~~or~~] county or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city***,*** [~~or~~] county or urban-county government is separate of penalties provided for in subsection (6) of this section. No city***,*** [~~or~~] county or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225(2) and 18A.228.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

SB 291, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer, with whom a person was most recently insured under a motor vehicle liability insurance policy, shall not refuse to issue a policy of motor vehicle liability insurance, nor shall the insurer impose an additional premium solely because the person is uninsured at the time of reapplication, if the person demonstrates that:

(1) He provided his insurer or insurance agent with prior notice of his intent to nonrenew the policy and the reasons for nonrenewal;

(2) During the period he was without insurance, he did not own a motor vehicle, the registration on the insured motor vehicle was cancelled because he was absent from the Commonwealth, the motor vehicle was out of use, or inoperable and under repair, or he was unable to pay the premium renewal due to unemployment or other bona fide economic hardship;

(3) During the period the person was without insurance, he was not involved in an at fault accident, or convicted of any traffic violation under the laws of the Commonwealth, nor had the risk of insuring the person materially changed; and

(4) The reapplication was made within twenty-four (24) months of the nonrenewal of the policy.

The Committee Substitute to **SB 291** is as follows:

SB 291, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An insurer, with whom a person was most recently insured under a motor vehicle liability insurance policy, shall not refuse to issue a policy of motor vehicle liability insurance, nor shall the insurer impose an additional premium solely because the person is uninsured at the time of reapplication, if the person demonstrates that:

(1) He provided his insurer or insurance agent with prior notice of his intent to nonrenew the policy and the reasons for nonrenewal;

(2) During the period he was without insurance, he did not own a motor vehicle, the registration on the insured motor vehicle was cancelled because he was absent from the Commonwealth, the motor vehicle was out of use, or inoperable and under repair, or he was unable to pay the premium renewal due to unemployment or other bona fide economic hardship;

(3) During the period the person was without insurance, he was not involved in an accident in which he was at fault, or convicted of any traffic violation under the laws of the Commonwealth, nor had the risk of insuring the person materially changed; and

(4) The reapplication was made within twenty-four (24) months of the nonrenewal of the policy.

SB 311, AN ACT relating to check cashing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 368 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 13 of this Act, unless the context requires otherwise:

(1) "Check" means any check, draft, money order, personal money order, travelers' check, or other instrument for the transmission or payment of money.

(2) "Commissioner" means the commissioner of the Department of Financial Institutions, or his duly designated representative.

(3) "Consideration" includes any premium charged for the sale of goods or services in excess of the cash price of the goods or services.

(4) "Department" means the Department of Financial Institutions.

(5) "Licensee" means a person duly licensed by the commissioner pursuant to Sections 1 to 12 of this Act.

(6) "Person" means any individual, partnership, association, joint stock association, trust, corporation, or other entity, but shall not include the United States government or the government of this Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Except as provided in Section 3 of this Act, no person shall engage in the business of cashing checks for a fee or other consideration without having first obtained a license. Any person engaged in that business on the effective date of this section may continue to engage in the business without a license until the commissioner shall have acted upon his application for a license if the application is filed within sixty (60) days after the effective date of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 12 of this Act shall not apply to:

(1) Any bank, trust company, savings and loan association, savings bank, credit union, consumer loan company, industrial loan corporation, mortgage loan company, mortgage loan broker, or pawn broker which is chartered, licensed, or organized under the laws of this Commonwealth or under federal law and authorized to do business in this Commonwealth;

(2) Any person who cashes checks without receiving, directly or indirectly, any consideration or fee therefor; and

(3) Any person principally engaged in the retail sale of goods or services who, either as an incident to or independently of a retail sale, may from time to time cash checks for a fee or other consideration.

SECTION 4. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

To qualify for a license, an applicant shall satisfy the following requirements:

(1) The applicant shall have a net worth of at least one hundred thousand dollars ($100,000), computed according to generally accepted accounting principles.

(2) The financial responsibility, financial condition, business experience, character, and general fitness of the applicant shall reasonably warrant the belief that the applicant's business will be conducted honestly, carefully, and efficiently. In determining whether this qualification has been met, the commissioner may review and approve:

(a) The business record and the capital adequacy of the applicant;

(b) The competence, experience, integrity, and financial ability of any person who:

1. Is a director, officer, supervisory employee, or five percent (5%) or more shareholder of the applicant; or

2. Owns or controls the applicant; and

(c) Any record, on the part of the applicant or any person referred to in subparagraph (b)1. and 2. of:

1. Any criminal activity;

2. Any fraud or other act of personal dishonesty;

3. Any act, omission, or practice which constitutes a breach of a fiduciary duty; or

4. Any suspension or removal, by any agency or department of the United States or any state, from participation in the conduct of any business.

SECTION 5. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Each application for a license shall be in writing and under oath to the department, in a form prescribed by the commissioner, and shall include the following:

(1) The legal name, residence, and business address of the applicant and, if the applicant is a partnership, association, or corporation, of every member, officer, and director thereof;

(2) The location at which the initial registered office of the applicant shall be located in this Commonwealth;

(3) The complete address of any locations at which the applicant proposes to engage in the business of cashing checks; and

(4) Other data and information the department may require with respect to the applicant, its directors, trustees, officers, members, or agents.

SECTION 6. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Each application for a license shall be accompanied by:

(1) An investigation fee of five hundred dollars ($500) for Kentucky residents and five hundred dollars ($500) for non-residents of Kentucky which shall not be subject to refund but which, if the license is granted, shall constitute the license fee for the first license year or part thereof;

(2) Audited financial statements prescribed by the commissioner; and

(3) Evidence that the applicant has complied or will comply with all workers and unemployment compensation laws of Kentucky.

SECTION 7. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Upon the filing of an application in a form prescribed by the commissoner, accompanied by the fee and documents required in Section 6 of this Act, the department shall investigate to ascertain whether the qualifications prescribed by Section 4 of this Act have been satisfied. If the commissioner finds that the qualifications have been satisfied, and if he approves the documents, he shall issue to the applicant a license to engage in the business of cashing checks in this Commonwealth.

(2) The license shall be kept conspicuously posted in the place of business of the licensee and shall not be transferable or assignable.

(3) A license issued pursuant to this section shall remain in force and effect through the remainder of the fiscal year ended June 30 following its date of issuance, unless earlier surrendered, suspended, or revoked pursuant to Sections 1 to 12 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Each licensee may be renewed for the ensuing twelve (12) months period upon the payment to the department annually on or before July 1 of each year a licensee fee of five hundred dollars ($500).

SECTION 9. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) The department may adopt reasonable administrative regulations, not inconsistent with law, for the enforcement of Sections 1 to 12 of this Act.

(2) To assure compliance with the provisions of Sections 1 to 12 of this Act, the department may examine the business, books, and records of any licensee, and each licensee shall pay an examination fee as established by administrative regulations of the department to cover the cost of the examination.

SECTION 10. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

(1) Each licensee shall keep and use in its business any books, accounts, and records the department may require to carry into effect the provisions of Sections 1 to 12 of this Act and the administrative regulations issued hereunder. Every licensee shall preserve the books, accounts, and records for at least two (2) years.

(2) Any fee charged by a licensee for cashing a check shall be disclosed in writing to the bearer of the check prior to cashing the check, and the fee shall be deemed a service fee and not interest.

(3) Before a licensee shall deposit with any bank or other depository institution a check cashed by the licensee, the check shall be endorsed with the actual name under which the licensee is doing business.

(4) No licensee shall cash a check payable to a payee other than a natural person unless the licensee has previously obtained appropriate documentation from the board of directors or similar governing body of the payee clearly indicating the authority of the natural person or persons cashing the check, draft, or money order on behalf of the payee.

(5) No licensee shall indicate through advertising, signs, billhead, or otherwise that checks may be cashed without identification of the bearer of the check; and any person seeking to cash a check shall be required to submit reasonable identification as prescribed by the department. The provisions of this subsection shall not prohibit a licensee from cashing a check simultaneously with the verification and establishment of the identity of the presenter by means other than the presentation of identification.

(6) Within five (5) business days after being advised by the payor financial institution that a check, draft, or money order has been altered, forged, stolen, obtained through fraudulent or illegal means, negotiated without proper legal authority, or represents the proceeds of illegal activity, the licensee shall notify the department and the Commonwealth's attorney for the judicial circuit in which the check was received. If a check, draft, or money order is returned to the licensee by the payor financial institution for any of these reasons, the licensee shall not release the check, draft, or money order without the consent of the Commonwealth's attorney or other investigating law enforcement authority.

SECTION 11. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

The commissioner may revoke a license on any ground on which he may refuse to grant a license or for violation of any provision of Sections 1 to 12 of this Act or if the licensee:

(1) Has committed any fraud, engaged in any dishonest activities, or made any misrepresentation;

(2) Has violated any provisions of Sections 1 to 12 of this Act or any administrative regulation issued pursuant thereto or has violated any other law in the course of its or his dealings as a licensee;

(3) Has made a false statement in the application for the license or failed to give a true reply to a question in the application;

(4) Has demonstrated his or its competency or untrustworthiness to act as a licensee.

SECTION 12. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

No license shall be denied or revoked except after a hearing. The department shall give the applicant or licensee at least twenty (20) days' written notice of the time and place of a hearing by certified mail addressed to the principal place of business of the applicant or licensee. Any order of the commissioner denying or revoking a license shall state the grounds upon which it is based and shall not be effective until the twenty (20) days after written notice thereof has been sent by certified mail to the applicant or licensee at his principal place of business.

SECTION 13. A NEW SECTION OF KRS CHAPTER 368 IS CREATED TO READ AS FOLLOWS:

Any person who directly or through another violates or attempts to violate any provision of Sections 1 to 12 of this Act shall be guilty of a misdemeanor, and shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned in the county jail for not more than twelve (12) months, or both. Each transaction in violation of Sections 1 to 12 of this Act and each day that a violation continues shall be a separate offense.

The Committee on Education reported **SB 18**, **SB 86**, **SB 109**, **SB 229**, **SB 420** and **SCR 76** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 18, AN ACT relating to free tuition for firefighter's relatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.2841 is amended to read as follows:

(1) Any person whose parent or any non-married widow or widower whose spouse was a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter and who was killed while in active service or training for active service or who died as a result of a service-connected disability shall not be required to pay any matriculation or tuition fee upon admission to any state-supported university, community college, or vocational training institution. The provisions of this subsection shall apply to any firefighter or volunteer firefighter who is killed or dies under the conditions covered in this subsection on ***July*** [~~October~~] 1, 1989, or thereafter.

(2) In order to obtain the benefits conferred by subsection (1) of this section, the parent-child relationship shall be shown by birth certificate, adoption papers, or other documentary evidence. The spousal relationship shall be shown by a marriage certificate or other documentary evidence. The parent's or spouse's service and the cause of death shall be evidenced by certification from the records of the Kentucky Justice Cabinet, the appropriate city or county law enforcement agency which employed the deceased, the administrative agency for the fire department or fire protection district recognized for funding under KRS 17.250, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

(3) If one so admitted to a state-supported university, community college, or vocational training institution under the provisions of this section shall have obtained a cash scholarship paid or payable to the institution, from whatever source, the amount of the scholarship shall be applied to the credit of the applicant in the payment of incidental expenses of his attendance at the institution, and any balance, if the terms of the scholarship permit, shall be returned to the applicant.

SB 86, AN ACT relating to family resource and youth services centers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act and KRS 156.497:

(1) "Core component" means one (1) of the activities or services for children and their families provided by a family resource or youth services center required by KRS 156.497(3) and (4).

(2) "Optional component" means one (1) of the activities or services provided for children or their families as part of the implementation of a family resource or youth services center in addition to those required by KRS 156.497(3) and (4) and designed to satisfy unique community needs.

(3) "Secretary" means the secretary of the Cabinet for Human Resources.

(4) "Task Force" means the Interagency Task Force on Family Resource and Youth Services Centers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) Beginning with fiscal year 1992 through fiscal year 1995, grants shall be awarded to eligible local school districts to implement or continue family resource and youth services centers as defined in KRS 156.497.

(2) Grant proposal instructions shall be developed by the Cabinet for Human Resources upon the recommendations of the Interagency Task Force on Family Resource and Youth Services Centers. The instructions shall be contained in a grant application package and distributed to each local public school district in which there are qualifying schools.

(3) A proposal review team comprised of at least three (3) members shall review proposals and score each application in accordance with training provided and scoring procedures established by the Cabinet for Human Resources upon the recommendation of the task force. Proposal reviewers shall be selected

by the secretary of the Cabinet for Human Resources and approved by the task force. The reviewers shall submit the scored proposals to the task force which shall make the final recommendations to the secretary. Written notification of the secretary's final decision on proposals shall be provided by the secretary to each applicant school district.

(4) The application from each qualifying school or school consortium shall contain the following:

(a) A statement of need;

(b) Proposed goals and outcomes;

(c) A description of the actual services and activities to be provided at the center and how they shall be provided;

(d) A description of how the children and families with the most urgent needs will be served first;

(e) Written agreements with other service providers;

(f) A description of the development, composition, and role of the local advisory council;

(g) The strategies to disseminate information;

(h) A training plan;

(i) A description of procedures to be followed to obtain parental permission for services and for sharing confidential information with other service providers. Procedures shall be developed pursuant to federal law and the Kentucky Revised Statutes including, but not limited to, KRS 210.410, 214.185, 222.440, 645.030, and Chapters 620 and 635 and shall require that no family resource center or youth services center offer contraceptives to minor students prior to receiving the express consent of the student's parent or legal guardian;

(j) A plan to minimize stigma;

(k) A work plan for each of the core components and optional components;

(l) Job descriptions for staff;

(m) A description of the center location and school accessibility;

(n) A description of the hours of operation of the center;

(o) A financial strategy and budget;

(p) A program evaluation plan; and

(q) Letters of endorsement and commitment to the center from community agencies and organizations.

(5) Grant proposal instruction and scoring procedures shall be made available to all qualifying schools. The Cabinet for Human Resources shall not be required to promulgate administrative regulations setting out the application and scoring procedures.

Section 3. KRS 156.497 is amended to read as follows:

(1) There is [~~hereby~~] created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of sixteen (16) members appointed by the Governor. The sixteen (16) members appointed shall include one (1) representative from each of the following agencies or groups:

(a) Department of Education;

(b) Department for Employment Services of the Cabinet for Human Resources;

(c) Department for Health Services of the Cabinet for Human Resources;

(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;

(e) Department for Social Services of the Cabinet for Human Resources;

(f) Department for Social Insurance of the Cabinet for Human Resources;

(g) Justice Cabinet;

(h) Governor's Office;

(i) Workforce Development Cabinet;

(j) Parents;

(k) Teachers;

(l) Local school administrators;

(m) Local school boards;

(n) Local community mental health-mental retardation programs;

(o) Local health departments; and

(p) Local community action agencies.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of [~~economically disadvantaged~~] children and their families. ***The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services.*** The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the development and implementation of the task force's plan.

(3) The plan developed by the task force shall include a five (5) year effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a five (5) year schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, ***but not be limited to,*** the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth of the eligible schools, with expansion by one-fourth by June 30 of each year thereafter until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is [~~hereby~~] established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall ***award*** [~~promulgate administrative regulations to establish criteria for the awarding of~~] the grants ***pursuant to Section 2 of this Act***. [~~In no case shall~~] A school district ***shall not*** operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion. [~~The grant applications shall be reviewed by the task force, which shall make its recommendations to the secretary of the Cabinet for Human Resources.~~]

(7) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1995, at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, ***the State Board for Elementary and Secondary Education,*** the Governor, and the Legislative Research Commission.

(8) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

Section 4. Whereas the family resource and youth services centers play an essential role in eliminating barriers to student learning, an emergency is declared to exist and this Act shall become effective on April 15, 1992.

SB 109, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise:

(a) "Disability" means hard of hearing, including deafness; speech or language impairment; visual impairment, including blindness; orthopedic impairment; other health impairment that substantially limits a major life activity; or specific learning problem.

(b) "Institution" means public universities, their subdivisions, and the University of Kentucky community college system.

(2) It is the intent of the General Assembly that an accountability process be implemented which provides for a systematic ongoing evaluation of quality and effectiveness in Kentucky public institutions of higher education and to provide a method for evaluating each institution's progress toward meeting specific standards. It is further the intent of the General Assembly that the accountability process monitor performance at the institutions in each of the major areas of instruction, research, and public service, while recognizing the individual missions of each of the institutions. The accountability process shall provide for the adoption of systemwide and individual performance goals with standards identified through a collaborative effort involving the higher education institutions and the Council on Higher Education. The accountability process shall be implemented in phases as follows:

(a) By October 1, 1992, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission a plan for implementing the higher education accountability process. The plan shall provide a timetable which identifies the specific performance standards and related goals to be implemented each year, with full implementation by December 31, 1994. The plan shall include, but not be limited to, data gathered and reported in a manner prescribed by the Council on Higher Education on the following performance standards:

1. Total student credit hours produced, by institution and by discipline;

2. Total number of degrees awarded, by institution and by discipline;

3. Total number of contact hours of instruction produced by faculty, rank of faculty, institution, and course level;

4. A measure of faculty workload to include the hours spent in the following activities: instruction, course preparation, noninstructional student contact, research, and public service;

5. Pass rates on professional licensure examinations, by institution;

6. Institutional quality as assessed by follow-up surveys of alumni, parents, clients, and employers;

7. Length of time and number of academic credits required to complete an academic degree, by institution and by degree.

8. Enrollment, persistence, retention, and graduation rates by discipline and by race, gender, and disability. The disability category shall include all students who are clients of vocational rehabilitation and students who make their disability known to the institution;

9. Student course demand analysis;

10. Classroom utilization;

11. Research and public service activities, including activities supporting elementary and secondary education reform;

12. The number and percentage of accredited programs and the number and percentage of programs eligible for accreditation;

13. The percent and number of students enrolled in remedial courses and the number of students exiting remedial courses and successfully completing entry-level curriculum courses; and

14. The number of full-time students who have transferred from a two-year, post-secondary institution and the number of these students who have successfully completed a four-year program.

(b) Beginning December 1, 1993, the Council on Higher Education shall submit to the Governor and the Legislative Research Commission an annual accountability report providing information on the implementation of performance standards and the achievement of the performance goals during the prior year and initiatives to be undertaken during the next year.

SB 229, AN ACT relating to dental education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 313 IS CREATED TO READ AS FOLLOWS:

(1) Upon receiving an application for licensure and the required fee as established by the board, the board may issue, without examination, a student limited license to any person who is a graduate of a dental school approved by the board and enrolled in a resident or post-graduate program conducted by or associated with one (1) of the Commonwealth's dental schools. The holder of this limited license may only practice dentistry in conjunction with programs of the dental school where the person is a student and may only provide professional services to patients of these programs.

(2) Upon receiving an application for licensure and the required fee as established by the board, the board may issue, without examination, a teaching limited license to a person who is a graduate of a dental school or post-graduate dental program approved by the board and who has received an appointment as a full-time faculty member of one (1) of the Commonwealth's dental schools. The holder of this limited license may only practice dentistry in conjunction with programs of the dental school of which the person is a faculty member and may only provide professional services to patients of these programs.

(3) Student limited licenses and teaching limited licenses shall be subject to annual renewal and shall automatically expire upon termination of the holder's status as a student or faculty member of the respective dental school of the Commonwealth.

(4) The holders of limited licenses described in this section shall have, within the scope of their respective licensures, all the duties and responsibilities of dental licensure imposed by this chapter and may be disciplined pursuant to KRS 313.130.

SB 420, AN ACT relating to the primary program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.160 is amended to read as follows:

(1) The State Board for Elementary and Secondary Education shall ***promulgate*** [~~adopt~~] administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be ***promulgated*** [~~adopted~~] for the following:

(a) Courses of study for the different grades and kinds of common schools, including procedures for developing an ungraded primary program ***as defined in KRS 158.030*** which shall be implemented by the beginning of the 1992-93 school year***, and the program, in its entirety, shall be fully implemented for all students who have not entered the fourth grade in every elementary school in every district by the beginning of the 1993-1994 school year. The primary program shall include the following critical attributes: developmentally appropriate educational practices, multi-age and multi-ability classrooms; continuous progress; authentic assessment; qualitative reporting methods; professional teamwork; and positive parent involvement***;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation. Prior to the beginning of the 1994-95 school year, the State Board for Elementary and Secondary Education shall review graduation requirements in light of the expected outcomes for students and schools set forth in KRS 158.6451;

(d) Taking, and keeping a school census, and the forms and blanks to be used in taking and keeping the census and in compiling the required reports;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the State Board for Elementary and Secondary Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations [~~deemed~~] necessary or advisable for the protection of the physical welfare and safety of the public school children. The regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. ***The*** [~~Such~~] regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the State Board for Elementary and Secondary Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the State Board for Elementary and Secondary Education;

(g) The transportation of children to and from school;

(h) The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(i) The preparation of budgets and salary schedules for the several school districts under the management and control of the State Board for Elementary and Secondary Education;

(j) A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(k) The disposal of real and personal property owned by local boards of education.

(2) At the request of a local school council, any local school district superintendent shall request that the State Board for Elementary and Secondary Education waive any administrative regulation promulgated

by that board. Prior to the 1994-95 school year, the requested waiver shall be granted to any school meeting the standards adopted pursuant to subsection (1) of this section. After the 1994-95 school year begins, a school shall exceed its threshold to be granted a waiver from regulations. Regulations relating to health and safety, civil rights, any state regulation required by a federal law, and regulations promulgated pursuant to KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful schools shall not be subject to waiver. Any waiver granted under this subsection shall be subject to revocation upon a determination by the State Board for Elementary and Secondary Education that the school holding the waiver has subsequently failed to reach its threshold level as provided for in KRS 158.6455.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the State Board for Elementary and Secondary Education and be certified upon application to the board by such schools.

SCR 76, A CONCURRENT RESOLUTION in support and honor of Kentucky Educational Television (KET).

WHEREAS, Kentucky Educational Television (KET) has, over its twenty-four years of existence, sought to find ever more effective ways to serve the educational, cultural, and informational needs of Kentuckians in ways possible only through technology; and

WHEREAS, its grasp has tended always to exceed its reach; and

WHEREAS, KET's attempts to offer Kentuckians more service than it could afford have been consistently encouraged by contributions from the private sector; and

WHEREAS, many members of the General Assembly, after having "given at the office", have seen fit to help KET further by reaching into their own pockets, encouraging others to do likewise; and

WHEREAS, private support has become a major element in KET's annual operating budget, accounting for fully one-third of it, as it has for most public institutions in our society from libraries to universities; and

WHEREAS, this is a relationship the Kentucky Legislature wishes to encourage;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the General Assembly of the Commonwealth of Kentucky recognizes that the benefits to Kentucky from the many services KET provides is best realized through the support of public and private partnership.

Section 2. That the General Assembly of the Commonwealth of Kentucky does hereby encourage corporations and individuals to contribute to the support of KET in order to supplement, but never to supplant, funding provided by the Commonwealth of Kentucky, which is the basic support of KET.

Section 3. That the General Assembly of the Commonwealth of Kentucky does hereby congratulate KET for building a successful public and private partnership, once again exemplifying its leadership in public broadcasting to the nation.

Floor Amendments

Floor Amendment No. 4 to **SB 269**, by Representative Arnold:

Amend printed copy of **SB 269/GA** on page 1, line 6, by adding after "***city,***" the word "***county,***";

and on page 1, line 8, by deleting the words: "***sheriffs, deputy sheriffs,***"; and

on page 2, line 1, by adding after "***city,***" the word "***county,***";

and on page 2, line 9, by adding after "***city,***" the word "***county,***"; and

on page 3, line 14, by adding after "***force***" the words:

"***, except that an elected sheriff shall not be dismissed from office***"; and

on page 3, line 19, by adding after "***cities,***" the word "***counties,***"; and

on page 3, line 20, by adding after "***police***" the words "***or sheriffs***"; and

on page 3, line 24, by adding after "***city,***" the word "***county,***";

and on page 4, line 13, by adding after "***city,***" the word "***county,***".

Calendar

SB 285, SB 287, SB 298, SB 318, HB 781, HB 797, HB 805, HB 892, HB 948, SB 41, SB 130, SB 147, SB 148, SB 149, SB 150, SB 159, SB 267, SB 309, SB 351, SCR 65, SJR 69, SB 308, SB 330, HB 790, HB 924, SB 275, SB 305, HB 717 and **SB 306** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 298**, by Representative Little:

Amend printed copy of **SB 298/GA** on page 24, after line 16 by inserting the following:

"***(20)(a) Each application for a permit required by this section shall include baseline ground water supply information for the permit area which shall be collected and submitted in a manner acceptable to the cabinet, and which shall include an inventory of wells, springs, underground mines, or other similar ground water supply facilities which are currently being used, have been used in the past, or have a potential to be used for domestic, agricultural, industrial, or other beneficial purpose. The inventory shall include the location, ownership, type of usage, and, where possible, the depth and diameter of wells, and approximate rate of usage, pumpage, or discharge from wells, springs, underground mines, and other ground water supply facilities, and seasonal ground water quantity and quality data collected over a six (6) month period from each well, spring, underground mine, or other similar ground water supply facility. The seasonal ground water quality data shall include test results for total dissolved solids or specific conductance, manganese, sulphates, pH, iron, sodium content, and other parameters as required by the cabinet.***

(b) For areas outside the proposed permit area, the permit applicant may collect the same ground water supply information required in subsection (1) of this section.

(c) The results of the test of each water supply shall be provided by the applicant to the owner and user of the water supply, within thirty (30) days of taking the sample. A copy of the test results for all samples taken pursuant to subsections (1) and (2) of this section shall be made part of the permit application.

(d) The owner or user of a ground water supply may have his own independent tests conducted and may submit the results of the test to the cabinet and the cabinet shall consider the test results to be part of the permit application. If the water supply owner or user submits test results to the cabinet,

the cabinet shall mail a copy of the test results to the applicant within ten (10) working days of receipt by the cabinet.

(e) Upon review of the permit application, the cabinet shall consider those test results submitted by both the applicant and the water supply owner or user, and if there is a discrepancy in the results, the cabinet may require the submission of additional information by the applicant or may conduct its own tests.; and

On page 27, line 11, after "(8)", by inserting the following:

"***No permit application shall be approved unless the applicant affirmatively demonstrates, and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available which is documented in the approval and made available to the applicant and the public, that the assessment of the probable cumulative impact of all anticipated mining in the area on the hydrologic balance specified in KRS 350.060(7) has been made by the cabinet and that the proposed operation has been designed to protect water supplies and prevent material damage to the hydrologic balance outside the permit area.***

"***(9)***"; and

On line 17, before "(9)" by inserting "***(10)***" and by placing brackets around and striking through "(9)"; and

On page 40, line 21, after "reclamation" by inserting "***and water resource replacement***"; and

On page 41, line 23, after "reclamation" by inserting "***and water replacement***"; and

On page 41, line 25, after "reclamation" by inserting "***and water supply replacement work***"; and

On page 42, line 2, after "pollution", by inserting "***, diminution, or interruption***"; and

On page 55, line 22, after "(2)" by inserting "***Any permit issued by the cabinet pursuant to this chapter and relating to underground coal mining, or the surface effects of underground mining, shall require the permit applicant to minimize disturbances of the prevailing hydrologic balance at the mine site and in associated off-site areas and to minimize disturbances to the quality and quantity of water in surface and ground water systems both during and after coal mining operations and during reclamation.***

"***(3)***"; and

On page 56, line 13, before "(3)" by inserting "***(4)***" and by placing brackets around and striking through "(3)"; and

On page 64, line 15, after "surface", by inserting "***or underground***"; and

On line 16, after "replace", by inserting "***or restore***"; and

On line 22, after "operation.", by inserting the following: "***Replacement water shall be provided in comparable quantity and quality in a manner which provides minimal disruption of water use and at no greater expense to the person to whom the replacement water has been provided than he would pay under similar climatic and economic pre-mining conditions if his water supply had not been affected, for as long as he continues to use the replacement water.***

(3) The cabinet shall periodically include in a complete inspection of a mining operation sample collection of surface water from one (1) or more discharge points and sample collection of ground water from one (1) or more monitoring wells. The results of a laboratory analysis, if conducted, shall be included as part of the inspection report.

Floor Amendment No. 1 to the Committee Substitute to **HB 473**, by Representative Ark:

Amend printed copy of **HB 473/HCS** on page 1, after line 8, by inserting the following new section:

"Section 2. KRS 313.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Dentistry.

(2) Any person shall be regarded as "practicing dentistry" who, for a fee, salary or other reward paid, or to be paid either to himself, or to another person, performs or advertises to perform, dental operations of any kind, or who diagnoses or treats diseases or lesions of human teeth or jaws, or attempts to correct malpositions thereof, or who diagnoses or treats disorders, or deficiencies of the oral cavity and adjacent associated structures, [~~or who takes impressions of the human teeth or jaws to be used directly in the fabrication of any intraoral appliance, or shall construct, supply, reproduce or repair any prosthetic denture, bridge, artificial restoration, appliance or other structure to be used or worn as a substitute for natural teeth, except upon the written laboratory procedure work order of a licensed dentist and constructed upon or by the use of casts or models made from an impression taken by a licensed dentist, or who shall advertise, offer, sell or deliver any such substitute or the services rendered in the construction, reproduction, supply or repair thereof to any person other than a licensed dentist, or who places or adjusts such substitute in the oral cavity of another,~~] or who uses the words "dentist," "dental surgeon," the letters "D.D.S.," "D.M.D.," or other letters or title in connection with his name, which in any way represents him as being engaged in the practice of dentistry.

(3) "Dental hygiene" shall mean the treatment of human teeth by scaling, polishing, planing and removing therefrom calcareous deposits, and by removing accumulated accretion from beneath the free margin of the gums, and may also include other dental activities not specifically prohibited by this chapter or by regulation of the board provided, that nothing in KRS 313.260 to 313.350 shall be so construed as to affect the practice of medicine or dentistry nor to prevent students of a dental college or university from practicing dental hygiene under supervision of their instructors; and, provided further, that nothing in KRS 313.260 to 313.350 shall be construed to authorize any dental hygienist to perform any operation in a patient's mouth without supervision of a dentist.

(4) "Dental laboratory" includes any person, firm or corporation other than a licensed dentist, who directly or through an agent or employee, by any means or method, in any way supplies or manufactures artificial substitutes for the natural teeth, other than those unfinished substitutes normally available through dental supply houses, or who furnishes, supplies, constructs or reproduces or repairs any prosthetic denture, bridge or appliance to be worn in the human mouth or who performs or offers or undertakes to perform or accomplish dental laboratory technology.

(5) "Dental laboratory technician" means any individual who performs or offers or undertakes to perform or accomplish dental laboratory technology and who is classified as such by regulations of the board adopted as provided in this chapter.

(6) "Commercial dental laboratory" shall mean any dental laboratory as defined in subsection (4) of this section other than a laboratory of practicing dentists, accredited schools and nonprofit institutions for use only for their own patients.

(7) "Commission" means the Dental Laboratory Advisory Commission.

(8) "Laboratory association" means the Kentucky Dental Laboratory Association."

And by renumbering the remaining sections to conform.

Floor Amendment No. 1 to **HB 866**, by Representative Johnson:

Amend printed copy of **HB 866** on page 2, line 6, following "***commenced***" to add: "***within two (2) years of the alleged unlawful practice.***" and to delete the colon ":"; and

on page 2, lines 7 to 16, to delete the same.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 51**, **SB 74**, **SB 75**, **SB 78**, **SB 82**, **SB 110**, **SB 215**, **SB 313**, **SB 323**, **SB 335**, **SJR 85**, **SB 130**, **SB 147**, **SB 148**, **SB 149**, **SB 150**, **SB 159**, **SB 267**, **SB 285**, **SB 287**, **SB 298**, **SB 306**, **SB 309**, **SB 318**, **SB 330**, **SB 351**, **SCR 65**, **SJR 69** and **HB 880** have been posted for passage in the Orders of the Day for March 23, 1992.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **SB 151**, **SB 41**, **SB 275**

Orders of the Day

HB 881, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of the Committee Substitute to **HB 881**. Agreed.

Representative Palumbo moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 881**. Agreed.

Representative Palumbo moved that **HB 881**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 20, 1992 roll call on **HB 881** - Appendix.)

HB 881, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 881**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 640, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stokes moved the adoption of the Committee Substitute to **HB 640**. Agreed.

Representative Stokes moved that **HB 640**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 35, Nays 32. (See March 20, 1992 roll call on **HB 640** - Appendix.)

HB 640, by way of Committee Substitute, was defeated.

Representative Stumbo moved that the vote by which **HB 640**, by way of Committee Substitute, was defeated be reconsidered and said motion be placed on the table.

HB 709 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved that **HB 709** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 20, 1992 roll call on **HB 709** - Appendix.)

HB 709 was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 709** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 787 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved that **HB 787** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 20, 1992 roll call on **HB 787** - Appendix.)

HB 787 was passed and the title agreed to.

Representative Bentley moved that the vote by which **HB 787** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 691, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Committee Amendment No. 1 to **HB 691**. Agreed.

Representative LeMaster moved that **HB 691**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 20, 1992 roll call on **HB 691** - Appendix.)

HB 691, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 691**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 870 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hourigan moved that **HB 870** be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 20, 1992 roll call on **HB 870** - Appendix.)

HB 870 was passed and the title agreed to.

Representative Hourigan moved that the vote by which **HB 870** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 849 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **HB 849** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 20, 1992 roll call on **HB 849** - Appendix.)

HB 849 was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 849** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 202**, by Representative Lewis:

Amend printed copy of **SB 202/GA** on page 9, below line 20, to add the following:

"Section 9. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

If a judgment has been entered for the plaintiff based on nonpayment of rent, but a writ of restitution is not entered within thirty (30) days after entry of the judgment, no writ shall issue pursuant to the judgment subject only to the following provisions of this section. If within the twelve (12) month period after entry of the judgment, the defendant fails to pay when due the rental amounts required by the rental agreement, the plaintiff may terminate the tenancy of defendant based on the subsequent rental default and obtain entry of a writ of restitution as follows:

(1) The plaintiff shall serve defendant with a notice of subsequent rental default, service deemed to be accomplished by the placing of the notice in the United States mail, postage prepaid, certified delivery, or by the hand-delivery of the notice to the defendant or to an adult member of his or her family who resides in the subject property.

(2) The notice shall advise defendant of the entry of the previous judgment and the subsequent rental default, and shall notify defendant that:

(a) He has five (5) days from the date of notice was mailed, or three (3) days from the date of hand-delivery of the late charges, and other lawful charges, if the default is remediable; and

(b) If the default is not adequately and timely remedied in the manner set forth in the notice, the plaintiff may redocket the action according to the procedures set forth in subsection (3) of this section.

(3) The plaintiff may redocket the cause for hearing by the court, as follows:

(a) The plaintiff shall file in the court a motion for redocket and a copy of the notice of subsequent default. The clerk of the court shall forthwith cause to be issued a forcible detainer warrant, notifying the defendant of the time, date, and place of the hearing.

(b) Service of the forcible detainer warrant shall be made pursuant to KRS 454.030.

(c) If the plaintiff proves that the notice of subsequent default was properly served, that the defendant has defaulted as alleged in the notice, and that the defendant has failed to remedy the default, the court shall issue judgment for the plaintiff awarding it possession of the property."

Floor Amendment No. 3 to **SB 114**, by Representative Morris:

Amend printed copy of **SB 114/GA** on page 168, after line 5, by inserting:

"Section 61. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following

such department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employees of any credit union whose membership is limited to employees of state government and their families;

(4) All persons who were professional staff employees of the Council on Higher Education or the Higher Education Assistance Authority and were contributing to the system on the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d); and

(7) All persons who are employees of a not-for-profit corporation qualified under Section 503(c) of the Internal Revenue Code incorporated for the sole purpose of supporting the State Board of Elections' responsibility for carrying out voter registration, education, and participation;

(8)[~~(7)~~] Membership in the system shall not include those employees who are simultaneously contributing to another state administered retirement fund within Kentucky other than those administered by the Kentucky Retirement Systems.

Orders of the Day (Continued)

HB 930, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 930**. Agreed.

Representative Burch moved that **HB 930**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 76, Nays 0. (See March 20, 1992 roll call on **HB 930** - Appendix.)

HB 930, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 930**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HR 132 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **HR 132** be adopted by a call of the roll.

On the roll call the vote was: Yeas 89, Nays 0. (See March 20, 1992 roll call on **HR 132** - Appendix.)

HR 132 was adopted.

Representative Noe moved that the vote by which **HR 132** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 133 taken from the Orders of the Day. Representative Stumbo moved that it be placed upon it passage. Agreed by a majority of members elected.

Representative Noe moved that **HR 133** be adopted by a call of the roll.

On the roll call the vote was: Yeas 95, Nays 0. (See March 20, 1992 roll call on **HR 133** - Appendix.)

HR 133 was adopted.

Representative Noe moved that the vote by which **HR 133** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 937, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 937**. Agreed.

Representative Barrows moved that **HB 937**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 20, 1992 roll call on **HB 937** - Appendix.)

HB 937, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 937**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 251**, by Representative Mason:

Amend printed copy of **SB 251/GA** on page 8, after line 22, by inserting the following new section:

"Section 4. KRS 205.900 is amended to read as follows:

As used in KRS 205.905 to 205.920:

(1) "Cabinet" means the Cabinet for Human Resources.

(2) "Evaluation team" means at least three (3) individuals employed as such by a qualified agency or organization.

(3) "Personal care assistance services" means services which are required by a severely physically disabled adult to achieve greater physical independence and which include, but are not limited to:

(a) Routine bodily functions, such as bowel or bladder care;

(b) Dressing;

(c) Housecleaning and laundry;

(d) Preparation and consumption of food;

(e) Moving in and out of bed;

(f) Routine bathing;

(g) Ambulation; and

(h) Any other similar activity of daily living.

(4) "Qualified agency or organization" means an agency or organization whose purpose is to provide services to severely physically handicapped adults to enable them to live as independently as possible and a majority of whose ***governing or advisory*** board ***are*** [~~is~~] consumers of ***these*** [~~such~~] services.

(5) "Secretary" means the secretary of the Cabinet for Human Resources.

(6) "Severely physically disabled adult" means a person eighteen (18) years of age or older with permanent or temporary, recurring functional loss of two (2) or more limbs.".

Floor Title Amendment to **SB 251**, by Representative Mason:

Amend printed copy of **SB 251/GA** on page 1, TITLE, by amending the title to read as follows:

"AN ACT relating to health."

Floor Amendment No. 2 to **HB 443**, by Representative Barrows:

Amend printed copy of **HB 443** on page 6, line 13, by changing the "." to ":" and by deleting "***If the board***";

On page 6, by deleting lines 14 through 19 in their entirety;

On page 6, line 20, by deleting "***determine whether to grant the waiver***" and inserting in lieu thereof the following:

"***1. The board shall afford the council a hearing within thirty (30) days from the date of the request for a waiver of board policy, unless a process of mediation has been initiated.***

2. The board shall issue a written decision with its rationale no later than sixty (60) days from the date of the hearing.

3. At any point in the process, the board may initiate a process for mediation or may direct a review and report on the issues, but shall not delay its decision beyond sixty (60) days from the date of the hearing without the agreement of the requesting council.

4. The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, may hear and advise local school districts and affected parties when disputes related to school councils and local boards arise. However, recommendations made by the State Board for Elementary and Secondary Education shall not be binding on the districts and parties";

On page 6, line 25, by changing the "." to ":" and by deleting "***After the appeal process has been exhausted at***"; and

On page 6, by deleting line 26 and on page 7, by deleting lines 1 through 6 in their entirety, and by deleting on line 7 "***uphold the council's decision***" and inserting in lieu thereof the following:

"***1. An appeal on a decision made by a school council shall first be reviewed by the school council, which shall make a timely response to the appealing party.***

2. If the matter is not resolved by the council, the appealing party may appeal to the board of education within twenty (20) days. The board shall afford the affected parties a hearing within thirty (30) days of the appeal to the board.

3. The board shall issue a written decision with its rationale no later than sixty (60) days after the date of the hearing.

4. At any point in the process, the board may initiate a process for mediation or may direct a review and report on the issues, but shall not delay its decision beyond sixty (60) days from the date of the hearing without the agreement of the affected parties.

5. The State Board for Elementary and Secondary Education, upon recommendation of the chief state school officer, may review decisions of local school boards regarding appeals on decisions made by school councils. However, recommendations made by the State Board for Elementary and Secondary Education related to the review shall not be binding on the districts and parties.".

Floor Amendment No. 1 to **HB 948**, by Representative Morris:

Amend printed copy of **HB 948** on page 3, after line 5, by adding the following:

"Section 2. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate [~~comprehensive~~] administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) [~~Layoffs;~~

~~(f)~~] Registers;

(f)[~~(g)~~] Types of appointments;

(g)[~~(h)~~] Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985.

(2) The commissioner shall promulgate [~~comprehensive~~] administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The commissioner may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Department of Personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the commissioner shall submit the administrative regulation to the board for review. ***Prior review by the board shall not be required for an administrative regulation filed as an emergency regulation.***

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class;

1. The commissioner shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

2. The secretary of the Finance and Administration Cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the Finance and Administration Cabinet on the basis of the availability of funds. The Finance and Administration Cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the secretary of the Finance and Administration Cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations***, where practicable,*** to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio, and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to ***establish qualification and training and experience registers based upon*** [~~use~~] any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the commissioner for a period not to exceed one (1) additional year. ***The commissioner may promulgate administrative regulations identifying classifications for which it is impractical to develop a competitive examination, for the ranking of candidates, based upon training, experience, or qualifications***;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as [~~age~~], physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(i) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(j) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave***; incentive programs, including outstanding merit increases or awards; job banks to facilitate internal mobility;***[~~,~~] safety, health, ***and*** welfare[~~,~~] counseling***;***[~~,~~] recreation***;***[~~,~~] and employee relations; [~~and~~]

(l) ***For procedures governing temporary reassignment and detail to special duty and the temporary overlapping of positions; and***

(m) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement."

Floor Amendment No. 1 to **SB** 275, by Representative Lear:

Amend printed copy of **SB** 275/GA on page 7, after line 13, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provisions of this chapter, the Transportation Cabinet may annually issue special permits to the owners, operators, or lessees of equipment used primarily to transport loads of indivisible concrete products. The permits may be issued for vehicles that exceed the weight, width, or length limitations set forth by KRS 189.222.

(2) The annual permit shall be limited to operation on those highways approved for vehicles with the

dimension limits set forth in KRS 189.222(7), and to vehicles whose gross vehicle weight shall not exceed one hundred twenty thousand (120,000) pounds.

(3) The length of the semitrailer of a motor vehicle operating on an annual permit issued pursuant to this section shall not exceed seventy (70) feet unless the semitrailer has steering capability.

(4) The width of the motor vehicle and load shall not exceed ten (10) feet, six (6) inches to be operated under an annual permit issued pursuant to this section.

(5) The fee for the annual permit issued to each power unit under the provisions of this section shall be one hundred fifty dollars ($150).

(6) If the indivisible concrete product to be transported causes the motor vehicle to exceed the limits set forth in subsection (2), (3), or (4) of this section, or if highways other than those specified in subsection (2) are to be used, the owner, operator, or lessee of the motor vehicle may apply for a supplement to the annual permit for a particular movement or series of movements over the same route. The supplemental permit may be applied for in the same manner as the annual permit. The fee for each supplement for each power unit shall be thirty dollars ($30).

(7) The Transportation Cabinet shall promulgate administrative regulations, pursuant to KRS Chapter 13A, governing the application, issuance, use, display, vehicle configuration, time, and safety provisions relating to both the annual and supplemental permits authorized by this section."

Floor Amendment No. 1 to **SB 82**, by Representative Barrows:

Amend printed copy of **SB 82GA** on page 16, after line 7, insert "SECTION 7. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) Prior to the issuance of the revenue bonds or notes authorized by or on behalf of any Kentucky school district, the corporation or school district authorized to issue the bonds or notes shall furnish to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue, and make available to the public, a listing of all costs associated, either directly or indirectly, with the issuance of the revenue bonds or notes. The cost shall be itemized as to amount and name of payee, and shall include fees or commissions paid to, or anticipated to be paid to, issuers, underwriters, placement agents and advisors, financial advisors, marketing agents, credit enhancers, trustees, accountants, and the counsel of all these persons, bond counsel, and special tax counsel, and shall include the economic benefits received or anticipated to be received by any other persons from any source in return for services performed relating to the issuance of the bonds or notes. Changes in amounts or names of payees or recipients, or additions of amounts or names of payees or recipients, to the listing furnished and made available pursuant to this subsection, shall be furnished to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue and made available to the public within three (3) days following the changes.

(2) The costs required to be furnished under the provisions of subsection (1) of this section shall not include the payment of wages or expenses to full-time, permanent employees of the relevant Kentucky school district or school districts."

On page 16, line 8, delete "7" and insert in lieu thereof "8"

On page 16, line 12, delete "8" and insert in lieu thereof "9"

Floor Title Amendment to **SB 82**, by Representative Barrows:

Amend printed copy of **SB 82/GA** by amending the title to read as follows:

"AN ACT relating to education."

Orders of the Day (Continued)

HB 831, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **HB 831**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 831**. Agreed.

Representative Zimmerman moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 831**.

On the roll call the vote was yeas 90—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Coleman, Crupper, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gedling, Gee, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Hourigan, Jensen, Johnson, Jones, Keith, Kerr, Lear, LeMaster, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Walker, Ward, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 0.

Floor Amendment No. 2 to the Committee Substitute to **HB 831** was adopted.

Representative Brown moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 831**. Rejected.

Representative Zimmerman moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 831**. Rejected.

Representative Donnermeyer moved that **HB 831**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 5. (See March 20, 1992 roll call on **HB 831** - Appendix.)

HB 831, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 831**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message (Continued)

Announcing passage of **SB 168**, **SB 198**, **SB 225**, **SB 231**, **SB 233**, **SB 282**, **SB 297** and **SB 426**. (Time: 11:06 a.m.)

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 457**, **HB 462**, **HB 497**, **HB 613**, **HJR 23** and **HJR 124** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 11:07 a.m.)

HB 457, **HB 462**, **HB 497**, **HB 613**, **HJR 23** and **HJR 124** were delivered to the Senate and signed by the President. Delivered to the Governor on March 20, 1992 at 11:27 a.m.

Orders of the Day (Continued)

HB 776, with Floor Amendments attached thereto, taken from the Orders of the Day. Representative

Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 776**, as amended by Floor Amendment No. 2, be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See March 20, 1992 roll call on **HB 776** - Appendix.)

HB 776, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 776**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **HB 715**, by Representative Mack:

Amend printed copy of **HB 715** by amending the title to read as follows:

"AN ACT relating to the use of corporal physical discipline or punishment on children."

Orders of the Day (Continued)

SB 219 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 219** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 20, 1992 roll call on **SB 219** - Appendix.)

SB 219 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 219** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 35, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of Floor Amendment No. 1 to **SB 35**. Agreed.

Representative Scorsone moved that **SB 35**, as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 25. (See March 20, 1992 roll call on **SB 35** - Appendix.)

SB 35, as amended, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **SB 35**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 70 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved that **SB 70** be passed.

On the roll call the vote was: Yeas 79, Nays 10. (See March 20, 1992 roll call on **SB 70** - Appendix.)

SB 70 was passed and the title agreed to.

Representative Ridley moved that the vote by which **SB 70** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 80, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **SB 80** be passed.

Representative Ackerson moved the adoption of Floor Amendment No. 1 to **SB 80**. Agreed.

Representative Long moved that **SB 80**, as amended, be passed.

On the roll call the vote was: Yeas 63, Nays 25. (See March 20, 1992 roll call on **SB 80** - Appendix.)

SB 80, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **SB 80**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **HB 715**, by Representative Mack:

Amend printed copy of **HB 715** on page 3, after line 22, by adding the following:

"Section 2. KRS 158.148 is amended to read as follows:

(1) In cooperation with the Kentucky Education Association, the Kentucky School Boards Association, the Kentucky Association of School Administrators, the Parent-Teachers Association, the Kentucky Chamber of Commerce, the Farm Bureau, members of the Interim Joint Committee on Education and other interested groups, the Department of Education shall develop statewide student discipline guidelines and recommendations designed to reduce the dropout rate in the state's public schools.

(2) The department shall obtain statewide data on major discipline problems and reasons why students drop out of school. In addition, strategies currently being used successfully in programs in Kentucky and in other states shall be incorporated into the statewide guidelines and the recommendations to reduce dropouts.

(3) Copies of the discipline guidelines shall be distributed to all school districts. The statewide guidelines shall contain broad principles to guide local districts in developing their own discipline code, which shall be filed with and approved by the State Department of Education and State Board for Elementary and Secondary Education. ***Each local board of education may adopt a local policy, as a part of its local code, which permits the use of corporal punishment within its district. The local policy of a district permitting the use of corporal punishment shall set out the conditions under which corporal punishment may be administered. The local policy on corporal punishment shall be filed with the State Board for Elementary and Secondary Education, which may disapprove a policy if it finds the policy to be contrary to law.*** The local code shall be distributed to all students and parents in the district.

(4) The Department of Education shall first provide technical assistance to those districts reporting the greatest number of dropouts. Reporting requirements shall be established by the Department of Education; however, reports shall be prepared in a manner that will provide data on successful strategies for dropout prevention.

(5) The State Board for Elementary and Secondary Education shall establish criteria for the development of dropout prevention programs and award grants for up to twenty (20) school districts in which:

(a) The percentage of students dropping out of school is among the highest twenty-five (25) districts in the state; and

(b) More than one hundred (100) students drop out of schools each year.

These grants shall be administered through contracts whereby school districts agree to provide dropout prevention services specified by the State Board for Elementary and Secondary Education. In addition, the State Board for Elementary and Secondary Education shall have the authority to award up to twenty (20) grants to school districts having high dropout rates but fewer than one hundred (100) dropouts per year. The State Board for Elementary and Secondary Education shall develop grant funding criteria based upon available appropriations."

Floor Amendment No. 2 to **SB 6**, by Representative Callahan:

Amend printed copy of **SB 6/GA** on page 3, after line 15, by adding the following:

"Section 2. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645, unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the cabinet for the placement of children committed to the cabinet;

(3) "Cabinet" means the Cabinet for Human Resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the justice cabinet after consultation with the Cabinet for Human Resources and other appropriate state agencies;

(5) "Child" means any person who has not reached his eighteenth birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the Cabinet for Human Resources or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10) "Community-based facility" means any nonsecure, homelike facility licensed, operated, or permitted to operate by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12) "Court" means the juvenile session of district court;

(13) "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

(14) "Department" means the Department for Social Services;

(15) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(16) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(17) "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(18) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(19) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(20) "Emotional injury" means an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(21) "Family service worker" means any employee of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(23) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(24) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days during a one (1) year period or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(25) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public facility, health care facility, or part thereof, which is approved by the cabinet to treat children;

(26) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(27) "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(28) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(29) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(30) "Juvenile holding facility" means a physically secure setting, approved by the justice cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision. Employees of jails who meet the qualifications of the justice cabinet may supervise juvenile as well as adult prisoners;

(31) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(32) "Nonsecure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(33) "Parent" means the biological or adoptive mother or father of a child;

(34) "Person exercising custodial control or supervision" means a person or agency that has assumed the role and responsibility of a parent or guardian for the child, but that does not necessarily have legal custody of the child;

(35) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(36) "Physical injury" means substantial physical pain or any impairment of physical condition;

(37) "Public offense action" means an action brought in the interest of a child who is accused of committing a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a moving motor vehicle offense. ***Public offenses shall include violations of local ordinances that apply to children for violation of curfew***;

(38) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(39) "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(40) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court designated worker for the purpose of making preliminary inquiries;

(41) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(42) "Secretary" means the secretary of the Cabinet for Human Resources;

(43) "Secure juvenile detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of, or attached to, any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(44) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(45) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ;

(46) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(47) "Sexual exploitation" includes, but is not limited to, a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(48) "Status offense action" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be considered criminal

or delinquent and such children shall be termed status offenders. Status offenses shall not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(49) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(50) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed. ***Non-compliance with a local government juvenile curfew ordinance shall be considered a violation***; and

(51) "Youthful offender" means any person regardless of age, transferred to circuit court under the provisions of KRS Chapter 640 and who is subsequently convicted in circuit court."

Orders of the Day (Continued)

SB 251 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **SB 251** be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See March 20, 1992 roll call on **SB 251** - Appendix.)

SB 251 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 251** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 81, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of the Committee Substitute to **SB 81**. Agreed.

Representative McElroy moved that **SB 81**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 60, Nays 28. (See March 20, 1992 roll call on **SB 81** - Appendix.)

SB 81, by way of Committee Substitute, was passed and the title agreed to.

Representative McElroy moved that the vote by which **SB 81**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **SB 386** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that the three day posting requirement on **SB 221** and **SB 151** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 245, by Representative Ark: A RESOLUTION urging the Congress of the United States to oppose strongly the removal of the Abraham Lincoln birthplace cabin from Kentucky to Washington, D.C.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Counties and Special Districts: **SB 177**, **SB 339**, **SB 378**

Agriculture and Small Business: **SB 377**, **SB 310**, **SB 370**, **SCR 106**

Floor Amendments (Continued)

Floor Amendment No. 2 to the Committee Substitute to **SB 335**, by Representative Riner:

Amend printed copy of **SB 335/HCS** on page 5, after line 3, by adding the following section:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Upon a finding that it is in the public interest of the Commonwealth, the commission shall authorize rate-making allowances to encourage electric and gas utility investment in energy conservation, including investments targeted to assist low-income customers in reducing their energy usage."

Floor Amendment No. 1 to the Committee Substitute to **SB 335**, by Representative Riner:

Amend printed copy of **SB 335/HCS** on page 5, after line 3, by adding the following:

"Section 3. KRS 278.060 is amended to read as follows:

(1) Each commissioner shall be a resident and qualified voter of this state, not less than twenty-five (25) years of age at the time of his appointment and qualification, and shall have resided in this state for at least three (3) years prior to his appointment and qualification. Each commissioner shall take and subscribe to the constitutional oath of office, which shall be recorded in the office of the secretary of state.

(2) No person shall be appointed to or hold the office of commissioner who holds any official relationship to any utility, or who owns any stocks or bonds thereof, or who has any pecuniary interest therein.

(3) No commissioner shall receive any rebate, pass, percentage of contract or other thing of value from any utility.

(4) In addition to the restrictions on members of the commission set forth in KRS 278.050(1), no commissioner shall engage in any occupation or business inconsistent with his duties as such commissioner.

(5) If any commissioner becomes a member of any political party committee, his office as commissioner shall be thereby vacated.

(6) ***At least one (1) member of the commission shall be an African-American.***

(7) In making appointments to the commission, the governor shall consider the various kinds of expertise relevant to utility regulation and the varied interests to be protected by the commission, including those of consumers as well as utility investors, and no more than two (2) members shall be of the same occupation or profession."

Floor Amendment No. 1 to **SB 139**, by Representative Ridley:

Amend printed copy of **SB 139/GA** on page 4, after line 11, by adding

"Section 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

Benefits payable under a policy described in KRS 18A.225 or under the self-funded plan described in KRS 18A.2281 shall be paid directly to the hospital or person rendering covered services if the insurer or plan has received an assignment of benefits to the hospital or person rendering covered services that is in writing and signed by the insured employee. Payment so made shall discharge the obligation of the insurer or plan with respect to the amount paid.".

Motions, Petitions and Communications (Continued)

Representative Noland moved that **HB 599** be withdrawn. Agreed.

Representative LeMaster moved the adoption of the following **HR 242**:

HR 242, A RESOLUTION honoring the Nicholas County High School boys' basketball team.

WHEREAS, the Nicholas County boys' basketball team has won the district championship at Bourbon County, its first since 1959; and

WHEREAS, Daniel Brown scored thirty-one points and hit all four free throws; and

WHEREAS, this inspired Blue Jacket team went on to the regionals trying hard for its second Sweet Sixteen berth, hoping to duplicate its other 10th Region title, won in 1957; and

WHEREAS, this fine team made it to the regional finals only to eventually lose to the Mason County Royals;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the Nicholas County High School boys' basketball team for winning the District Championship and competing well in the Regionals.

Section 2. That this honorable body praises the performance of each member of the team, and Coach Ed Oakley, and assistant coaches, Greg Letcher and Bob Storie.

Section 3. That the Clerk of the House of Representatives is directed to send two copies of this resolution to Coach Ed Oakley, Nicholas County High School, School Drive, Carlisle, Kentucky 40311.

HR 242 was adopted by voice vote.

Representative Long moved the adoption of the following **HR 243**:

HR 243, A RESOLUTION adjourning in honor of the Kentucky Heritage Quilt Society.

WHEREAS, March 21, 1992, is the third annual Quilter's Day Out, sponsored by the Kentucky Heritage Quilt Society, Incorporated; and

WHEREAS, the Society promotes understanding, appreciation, and knowledge of the art of quiltmaking; and

WHEREAS, the Society supports the documentation of Kentucky quiltmakers and the preservation and documentation of Kentucky quilts; and

WHEREAS, the Society undertakes educational activities to encourage the art of quilting so that the quilts of today may become the heirlooms of tomorrow;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives commends the Kentucky Heritage Quilt Society for its dedication to preserving Kentucky's artistic heritage.

Section 2. That when this honorable body adjourns today, it does so in honor of the Kentucky Heritage Quilt Society.

Section 3. That the Clerk of the House of Representatives is directed to send one copy of this Resolution to each of the following: Kentucky Heritage Quilt Society, P. O. Box 23392, Lexington, Kentucky, 40523, and Kathleen Dailey 13310 Owenton Road, Frankfort, Kentucky, 40601.

HR 243 was adopted by voice vote.

Representative Hourigan moved the adoption of the following **HR 244**:

HR 244, A RESOLUTION honoring the Marion County High School boys' basketball team.

WHEREAS, the Marion County Knights won the twentieth district championship; and

WHEREAS, the Marion County Knights won fifty-two to thirty-nine over Nelson County, winning the fifth region, its first State Tournament berth, ever; and

WHEREAS, the Marion County Knights have moved into the Sweet Sixteen; and

WHEREAS, the Marion County Knights take a twenty-eight and 2 record into its Sweet Sixteen first round game;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors the Marion County High School boys' basketball team; Joe Ray Bland, Tony A. Luckett, Stuart J. O'Daniel, Al A. Brady, Alex J. Crume, Elton M. Scott, Chad Spalding, Joe M. Spalding, Robert S. Spalding, Vincent E. Biggers, Michael J. Douglas, Anthony J. Epps, Steven Ferriell, Craig Mattingly, and Anthony Owens.

Section 2. That the House of Representatives wishes them every success in the Sweet Sixteen.

Section 3. That this honorable body praises the performance of each member of the team and Head Coach Tim Davis and assistant coaches, Josh McKay, Terry Wright, and Danny Marks.

Section 4. That the Clerk of the House of Representatives is directed to send two copies of this Resolution to Head Coach Tim Davis, Marion County High School, Route 3, Lebanon, Kentucky 40033.

HR 244 was adopted by voice vote.

Representative Gregory moved the adoption of the following **HR 234**:

HR 234, A RESOLUTION in honor of Ray Mackey.

WHEREAS, Ray Mackey, a native of Clinton County, Kentucky graduated from the University of Kentucky in 1949 with a Bachelor of Science degree in Agronomy; and

WHEREAS, Ray Mackey was past president of the Kentucky Farm Bureau from 1978 to 1991 and is presently in his twenty-ninth year on the Kentucky Farm Bureau Board of Directors; and

WHEREAS, Ray Mackey, while representing the Southern Region of State Farm Bureaus, served for ten years on the American Farm Bureau Federation Board of Directors; and

WHEREAS, Ray Mackey was named a Distinguished Alumnus by the University of Kentucky College of Agriculture in 1981; was the recipient of the National 4-H Alumni Award in 1985; was named by ***Progressive Farmer*** magazine in 1987 as its "Man of the Year in Service to Agriculture Award" and in 1991 was named "Agricultural Leader of the Year" by the Agricultural Communicators of Kentucky; and

WHEREAS, Ray Mackey is owner and operator of Meadow View Farms in Glendale, Kentucky and is in his forty-second year as a working farmer; and

WHEREAS, Ray Mackey is the loving husband to Anne Mackey, adored father of seven children and proud grandfather to three grandchildren;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is proud to salute Ray Mackey for his long career of agricultural leadership and his many contributions to the farming communities in the Commonwealth of Kentucky.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Mr. Ray Mackey, 1921 Glendale-Hodgenville Road, Elizabethtown, Kentucky 42701.

HR 234 was adopted by voice vote.

Representative Gregory moved that a call of the roll be taken to show co-sponsors of **HR 234**.

On the roll call the vote was yeas 62—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Blandford, Bowling, Bryant, Butler, Casebier, Castleman, L. Clark, P. Clark, Crupper, Cyrus, Donnermeyer, Farley, Farrow, Ford, Gedling, Gee, Geveden, Gray, Gregory, Hancock, Hatcher, Jensen, Johnson, Keith, Kerr, Lear, Lile, Lyne, Maggard, McElroy, Moberly, Morris, Mullinix, Napier, Noland, Northup, Nunn, Overstreet, Palumbo, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Sanders, B. Smith, T. Smith, Stokes, Strong, Toby, Turner, Williams, Worthington, Yates, Zimmerman. Nays 0.

Representative Strong moved the adoption of the following Legislative Citation No. 44. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends HOME PLACE CLINIC for the dedicated and compassionate services provided to your community. Since opening in 1967, the Home Place Clinic has provided an out patient clinic and medical treatment, as well as pharmacy and laboratory services for many Kentuckians.

This prestigious body joins Representative William R. Strong in commending the Home Place Clinic for the assistance and services offered to the community. We extend our very best wishes to all members of the staff.

Representative Strong moved the adoption of the following Legislative Citation No. 45. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and commends BUCKHORN CHILDREN'S CENTER for the dedicated and compassionate care provided to the children in the communities you serve. Since being established in 1902, the Buckhorn Children's Center has offered a professional and loving residential treatment center for emotionally disturbed adolescents. The three Montessori Schools provide quality and innovative care for children in Buckhorn, Letcher County and Breathitt County.

This prestigious body joins Representative William R. Strong in commending the Buckhorn Children's Center for the care and treatment offered to the children of Kentucky. We extend our very best wishes to all members of the staff.

Representative Ark moved the adoption of the following **HR 245**:

HR 245, A RESOLUTION urging the Congress of the United States to oppose strongly the removal of the Abraham Lincoln birthplace cabin from Kentucky to Washington, D.C.

WHEREAS, Abraham Lincoln, the sixteenth President of the United States, was born on February 12, 1809, near Hodgenville, Kentucky; and

WHEREAS, Abraham Lincoln, a disciple of Henry Clay and sensitive to the tragedies of slavery, became renowned as the "Great Emancipator"; and

WHEREAS, the humble cabin in which Abraham Lincoln, Kentucky's most favorite native son was born, has become a shrine for the lovers of freedom;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body proudly hails the greatness of Abraham Lincoln, his contributions to the people of this country being unlimited, and his dedication to the belief that all men are created equal.

Section 2. That this honorable body recognizes that this great Commonwealth is rich in its heritage and justifiably protective of that heritage, of which Abraham Lincoln and other Kentucky native sons are so cherished, and that it swells with pride when it reflects upon the memory of those Kentuckians who were so instrumental in the history of this nation.

Section 3. That this honorable body urges the Congress of the United States to express its vigorous opposition to the relocation of the Abraham Lincoln birthplace cabin.

Section 4. That the Clerk of the House of Representatives is directed to transmit copies of this Resolution to the Honorable Brereton Jones, Governor, Commonwealth of Kentucky, The State Capitol, Frankfort, Kentucky 40601; the Honorable Wendell H. Ford, **SR-173A** Russell Senate Office Building, Washington, D. C. 20510-1701; the Honorable Mitch McConnell, **SR 120** Russell Senate Office Building, Washington, D.C. 20510-1702; the Honorable Carroll Hubbard, 2268 Rayburn House Office Building, Washington, D.C. 20515-1701; the Honorable William H. Natcher, 2333 Rayburn House Office Building, Washington, D.C. 20515-1702; the Honorable Romano L. Mazzoli, 2246 Rayburn House Office Building, Washington, D.C. 20515-1703; the Honorable Jim Bunning, 116 Cannon House Office Building, Washington, D.C. 20515-1704; the Honorable Harold Rogers, 343 Cannon House Office Building, Washington, D.C. 20515-1705; the Honorable Larry J. Hopkins, 2437 Rayburn House Office Building, Washington, D.C. 20515-1706; and the Honorable Carl C. Perkins, 1004 Longworth House Office Building, Washington, D.C. 20515-1707.

HR 245 was adopted by voice vote.

Representative Ark moved that a call of the roll be taken to show co-sponsors of **HR 245**.

On the roll call the vote was yeas 53—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Blandford, Bronger, Bryant, Butler, Callahan, Casebier, L. Clark, P. Clark, Coleman, Crupper, Cyrus, Donnermeyer, Gedling, Gee, Geveden, Gray, Gregory, Jensen, Johnson, Keith, Kerr, Lear, LeMaster, Lile, Long, Lyne, Mason, McElroy, Moberly, Mullinix, Napier, Noland, Northup, Nunn, Overstreet, Pritchett, Rapier, Ravenscraft, Richards, Richardson, Ridley, Sanders, B. Smith, T. Smith, Todd, Turner, Worthington, Zimmerman. Nays 0.

Announcements

The following meetings were announced:

Appropriations and Revenue, upon adjournment, March 20, 1992.

State Government, 1:00 p.m., March 23, 1992, Room 129, on **SB 63** and **SB 209**.

Elections and Constitutional Amendments, 12 Noon, March 23, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Monday, March 23, 1992.

On the roll call the vote was yeas 79—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Casebier, Castleman, L. Clark, Clarke, Collins, Crupper, Cyrus, Donnermeyer, Farley, Farrow, Ford, Freibert, Gee, Gedling, Gray, Hancock, K. Harper, Hatcher, Jensen, Johnson, Jones, Keith, Kerr, Lear, Little, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Noe, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Riner, Sanders, Scorsone, Sheehan, B. Smith, T Smith, Stokes, Strong, Stumbo, Todd, Turner, Wayne, Williams, Yates, Zimmerman. Nays 3—Bronger, LeMaster, Lile.

The motion to adjourn was adopted.

MONDAY, MARCH 23, 1992

FIFTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. James Wagner, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative R. Smith.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 20, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 276**, **SB 393**, **HB 277**, with Senate Committee Substitute, **HB 321**, with Senate Committee Substitute and Senate Committee Amendment, **HB 451**, with Senate Committee Amendment, **HB 468**, with Senate Committee Amendment, **HB 605**, with Senate Floor Amendment, **HB 749**, with Senate Committee Substitute, **HB 153**, **HB 299**, **HB 323**, **HB 351**, **HB 374**, **HB 386**, **HB 436**, **HB 467**, **HB 541**, **HB 556**, **HB 617**, **HB 666**, **HB 683**, **HB 686**, **HB 703**, **HCR 78** and **HJR 94**. (Time: 2:03 p.m.)

Floor Amendments

Floor Amendment No. 1 to **SB 308**, by Representative Farrow:

Amend printed copy of **SB 308/GA** as follows:

On page 14, following line 1, by inserting:

"SECTION 10. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) In the case of a precinct comprised of a small number of registered voters, the county board of elections may, pursuant to KRS 117.055, utilize the facilities of another precinct as a voting location. Additionally, the county board of elections may petition the State Board of Elections to allow the precinct election officers of the larger precinct to serve as precinct election officers for the precinct that is the subject of the petition. The petition shall designate both the smaller precinct and the larger precinct with which it is to be included, and the type of voting machine or machines to be used. The petition shall contain a full explanation of the reasons why inclusion is desirable.

(2) If the petition submitted pursuant to subsection (1) of this section is approved by the State Board of Elections, the election shall be conducted according to the following provisions:

(a) One voting machine may be utilized for both precincts if the State Board of Elections certifies that separate ballots may be placed upon the voting machine to be used without endangering the integrity of the ballots or without violating any other election law. Otherwise, separate voting machines shall be used for each precinct;

(b) Separate precinct voter rosters shall be maintained for each precinct, and steps shall be taken to insure that voters cast their ballot in their duly authorized precinct; and

(c) A separate set of elections forms and reports required by this chapter and the State Board of Elections shall be maintained for each precinct.

Section 11. Whereas it is imperative that a procedure be established to allow small precincts to conduct elections without the added expense of additional voting machines and precinct election officers, an emergency is declared to exist, and Section 10 of this Act shall become effective upon its passage and approval by the Governor."

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Banking and Insurance: **SB 282, SB 217**

Business Organizations and Professions: **SB 181, SCR 123**

Health and Welfare: **SB 198, SB 231, SB 426**

Judiciary: **SB 168, SB 225, SB 233**

Natural Resources and Environmental Protection: **SB 297**

State Government: **SB 382**

Transportation: **SB 365**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **SB 346, SB 384**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 785** as a Consent Bill and **SB 151**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute to **SB 151** is as follows:

Amend printed copy of **SB 151/HCS** as follows:

On page 2, line 3, by deleting the date and year, "***January 1, 1992***" and inserting in lieu thereof the date and year, "***July 1, 1991***".

The Committee on Appropriations and Revenue reported **HB 827** and **SB 258** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 827, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.555 is amended to read as follows:

(1) Any employee entering the Armed Forces of the United States after he first participates in the system,

being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with ***the*** [~~such~~] service under subsections (1) to (3) of this section ***if*** [~~provided~~] he pays thirty-five percent (35%) of the cost of ***the*** [~~such~~] service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560, and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for ***the*** [~~such~~] purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account***,*** the board shall not accept employee payments until ***the*** [~~such~~] time [~~as~~] funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employee contribution ratio if ***the*** [~~such~~] member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service***,*** [~~(~~]or his beneficiary if the member dies prior to retirement***,***[~~)~~] shall receive current service for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with ***the*** [~~such~~] service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for ***the*** [~~such~~] pension in the future.[~~, provided that~~] Nothing in this section shall prohibit ***the*** [~~such~~] purchase of credit ***if*** [~~where~~] the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or ***if*** [~~where~~] the military pension is a disability pension or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any member of the Kentucky Employees Retirement System age sixty-five (65) or older who has

forty-eight (48) months of service, at least twelve (12) of which are current service, or any member of the Kentucky Employees Retirement System or the State Police Retirement System who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be made by the same methods set forth in subsection (6) of this section, and the delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited in the individual member's account.

Section 2. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive credit for active service rendered in the Armed Forces of the United States, ***or service in the military reserves of the United States or the National Guard*** subject to regulations established by the board of trustees. Military service may be credited only if discharge was other than dishonorable, ***but purchase of military reserve or National Guard service may be made prior to discharge***. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of military service may be credited, but [~~in no case~~] a greater number of years ***shall not be credited*** than the actual years of contributing service in Kentucky. ***A member may purchase one (1) month of service for each six (6) months of service in the military reserves or the National Guard.***

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) A member receiving retirement credit for active duty in the armed services of the United States ***or service in the military reserves or the National Guard*** shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the survivor, death, and medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services ***or service in the military reserves or the National Guard***, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

SB 258, AN ACT relating to motor fuel tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The Transportation Cabinet may enter the International Fuel Tax Agreement or other cooperative compacts or agreements with other states or jurisdictions in order to permit base state or base jurisdiction licensing of persons using motor fuel in this state. Those agreements may provide for the cooperation and assistance among member states in the administration and collection of motor fuel tax, including, but not limited to, exchanges of information, auditing and assessing of interstate carriers and suppliers, and any other activities necessary to further uniformity.

The Committee on Appropriations and Revenue reported **SB 301** and **SB 383**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 301, AN ACT relating to purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.185 is amended to read as follows:

(1) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the Commonwealth to exceed ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~]. Bidder's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the Commonwealth. Nothing herein prevents the requirement of such bonds on construction contracts under ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~] when the circumstances warrant.

(2) Bidder's security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(3) When the invitation for bids requires that bidder security be provided, non-compliance requires that the bid be rejected, provided, however, that the secretary of the Finance and Administration Cabinet may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

Section 2. KRS 45A.190 is amended to read as follows:

(1) When a construction contract is awarded in an amount in excess of ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~], the following bonds shall be furnished to the Commonwealth, and shall be binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the Commonwealth executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the Commonwealth executed by a surety company authorized to do business in the Commonwealth, or otherwise supplied, satisfactory to the Commonwealth, for the protection of all persons supplying labor and material to the contractor or his subcontractors, for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) Nothing in this section shall be construed to limit the authority of the Commonwealth to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section.

Section 3. KRS 45A.430 is amended to read as follows:

(1) Bidder security shall be required for all competitive sealed bidding for construction contracts when the price is estimated by the local public agency to exceed ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~]. Bidder's security shall be a bond provided by a surety company authorized to do business in this Commonwealth, or the equivalent in cash, in a form satisfactory to the local public agency. Nothing herein prevents the requirement of such bonds on construction contracts under ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~] when the circumstances warrant.

(2) Bidder's security shall be in an amount equal to at least five percent (5%) of the amount of the bid.

(3) When the invitation for bids requires that bidder security be provided, noncompliance requires that the bid be rejected, provided, however, that the local public agency may set forth by regulation exceptions to this requirement in the event of substantial compliance.

(4) After the bids are opened, they shall be irrevocable for the period specified in the invitation for bids, provided that, if a bidder is permitted to withdraw his bid before award because of a mistake in the bid as allowed by law or regulation, no action shall be had against the bidder or the bidder's security.

Section 4. KRS 45A.435 is amended to read as follows:

(1) When a construction contract is awarded in an amount in excess of ***fifty*** [~~twenty-five~~] thousand dollars ***($50,000)*** [~~($25,000)~~], the following bonds shall be furnished to the local public agency, and shall become binding on the parties upon the award of the contract:

(a) A performance bond satisfactory to the local public agency executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the local public agency, in an amount equal to one hundred percent (100%) of the contract price as it may be increased; and

(b) A payment bond satisfactory to the local public agency, executed by a surety company authorized to do business in this Commonwealth, or otherwise supplied, satisfactory to the local public agency, for the protection of all persons supplying labor and material to the contractor or his subcontractors for the performance of the work provided for in the contract. The bond shall be in an amount equal to one hundred percent (100%) of the original contract price.

(2) Nothing in this section shall be construed to limit the authority of the local public agency to require a performance bond or other security in addition to those bonds, or in circumstances other than specified in subsection (1) of this section, including, but not limited to, bonds for the payment of taxes and unemployment insurance premiums.

Section 5. KRS 45A.115 is amended to read as follows:

The secretary of the Finance and Administration Cabinet may provide for prequalification of suppliers as responsible prospective contractors for particular types of supplies, services, and construction. Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified suppliers. Prequalification shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

(3) Prequalification of suppliers shall not be required for suppliers of mowing services, sweeping services, and fertilizing services when the estimated contractual cost is less than one hundred thousand dollars ($100,000) and payment is not due until the work has been completed.

Section 6. KRS 176.080 is amended to read as follows:

(1) Each bidder shall accompany his bid with a bond or certified check payable to the State Treasurer for a reasonable sum, fixed by the department, guaranteeing that he will enter into a contract with the department for doing the work if the work is awarded to him.

(2) The contract shall be awarded to the lowest and best bidder. The department may require bonds from any contractor to secure the performance of any contract or may require security by any other means it deems advisable.

(3) The department may reject any bid when it finds it for the best interest of the state to do so. When all bids are rejected, the department shall advertise for new bids as in the first place.

(4) A security bond or check shall not be required when bidding on contracts for mowing services, sweeping services, or fertilizing services when the estimated contractural cost is less than one hundred thousand dollars ($100,000) and payment is not due until the work has been completed.

Section 7. KRS 176.090 is amended to read as follows:

(1) The contract shall state the time when the work shall be begun and completed, and the time and manner of payment. The department may require that a certain percent of the contract price, or a certain fixed sum shall not be paid to the contractor until a fixed time after completion and acceptance of the work ***except on those contracts exempt in KRS 176.080(4)***.

(2) When the contract provides for partial payment based on the amount of work done, the representative of the department in charge of the work shall present to the department, as each payment becomes due, a certificate signed by him, showing as nearly as possible the amount of work done for which payment is to be made. If the state highway engineer finds that the amount certified is due, the Finance and Administration Cabinet shall draw a warrant for the amount certified, on the request of the Department of Highways.

(3) When the work has been fully completed, the representative of the department shall certify to the department a detailed and itemized statement of the cost of the work done, and if it is found to be correct, the department shall certify the amount to the Finance and Administration Cabinet, which shall draw a warrant for the amount due.

(4) All bonds and bids filed and all contracts approved by the department and a copy of all specifications and certifications shall be kept on file in the office of the department.

Section 8. KRS 176.130 is amended to read as follows:

(1) Every person who seeks to procure, bid upon, or offer to bid upon any contract with the department for the construction or maintenance of any public road or any section thereof, before procuring a proposal form or submitting any bid to obtain such contract, shall procure a certificate of eligibility from the department to bid on such work.

(2) All applications for a certificate of eligibility shall be made to the department in writing, and the department shall act upon the application within thirty (30) days after the application is filed.

(3) A certificate of eligibility is not necessary where the department purchases equipment, material and supplies directly, except in the case of the purchase of crushed stone in lots of more than one thousand (1,000) tons, or bituminous materials in tank car lots.

(4) A certificate of eligibility shall not be required on those contracts exempt from security by KRS 176.080(4).

SB 383, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.020 is amended to read as follows:

(1) The Revenue Cabinet shall be headed by the secretary of revenue, who shall be the executive officer and shall have sole charge of the administration of the cabinet, and shall perform all functions of the cabinet.

(2) The Revenue Cabinet shall be organized into the following functional units:

(a) Office of the Secretary. The Office of the Secretary shall include such principal assistants and personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of his office;

(b) Department of Property Taxation. The Department of Property Taxation shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuating the property of public service companies, and administering intangible taxes;

(c) Department of Tax Compliance. The Department of Tax Compliance shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, providing data services, conducting audits, providing liaison with federal and state agencies, rendering taxpayer assistance, collecting delinquent taxes, and providing word processing services;

(d) Department of Administrative Services. The Department of Administrative Services shall be headed by a commissioner. The functions and duties of the department shall include reviewing audits, conducting conferences, issuing final rulings, administering taxpayer protests, establishing Revenue Cabinet tax policies, representing the Revenue Cabinet in legal and administrative actions, providing management analysis, preparing publications, and providing personnel and fiscal services.

(3) The functions and duties of the Revenue Cabinet shall include conducting conferences, administering taxpayer protests, and settling tax controversies on a fair and equitable basis, taking into consideration the hazards of litigation to the Commonwealth of Kentucky and the taxpayer. The mission of the Revenue Cabinet shall be to afford an opportunity for taxpayers to have an independent informal review of the determinations of the audit functions of the Department of Tax Compliance and the Department of Administrative Services, and to attempt to fairly and equitably resolve tax controversies at the administrative level.

(4)[~~(3)~~] The Revenue Cabinet shall be organized for administrative convenience into divisions in accordance with KRS Chapter 12.

(5)[~~(4)~~] The Revenue Cabinet shall fully cooperate with and make information on tax receipts available to the Finance and Administration Cabinet's Office of Financial Management and Economic Analysis as necessary for the office to perform its duties.

Section 2. KRS 131.030 is amended to read as follows:

(1) The Revenue Cabinet shall exercise all administrative functions of the state in relation to the state revenue and tax laws, the licensing and registering of motor vehicles, the equalization of tax assessments, the assessment of public utilities and public service corporations for taxes, the assessment of franchises, the supervision of tax collections, and the enforcement of revenue and tax laws, either directly or through supervision of tax administration activity in other departments to which the Revenue Cabinet may commit administration of certain taxes.

(2) The Revenue Cabinet shall have all the powers and duties with reference to assessment or equalization of the assessment of property heretofore exercised or performed by any state board or commission.

(3) The Revenue Cabinet shall have all the powers and duties necessary to consider and settle tax cases under KRS 131.110 and refund claims made under KRS 134.580. The Revenue Cabinet is encouraged to settle controversies on a fair and equitable basis and shall be authorized to settle tax controversies based on the hazards of litigation applicable to them.

Section 3. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Revenue Cabinet.

(1) The cabinet shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and cabinet employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(2) The cabinet shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the cabinet. Such statements shall

be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the cabinet distributed to the public.

(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the cabinet. The taxpayer shall be informed of such right prior to conduct of any conference or hearing.

(4) The cabinet shall perform audits and conduct conferences and hearings only at reasonable times and places.

(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the cabinet. The cabinet may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of such cabinet recording or a transcript thereof as provided in KRS 61.874.

(6) If any taxpayer's failure to submit a timely return or payment to the cabinet is due to the taxpayer's reasonable reliance on written advice from the cabinet, the taxpayer shall be relieved of any penalty or interest with respect thereto provided the taxpayer requested such advice in writing from the cabinet and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the cabinet did not subsequently rescind or modify the advice in writing and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the cabinet's earlier written advice no longer valid.

(7) Taxpayers shall have the right to receive a copy of any audit of the cabinet by the Auditor of Public Accounts relating to the cabinet's compliance with the provisions of KRS 131.041 to 131.081.

(8) The cabinet shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer***, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made.*** Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.

(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the cabinet of the amounts owed. The cabinet may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The cabinet shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the cabinet has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.

(10) The cabinet shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Revenue Cabinet personnel.

(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer notifies the cabinet thereof in writing and provides a copy of such extension at the time and in the manner which the cabinet may require.

(12) The cabinet shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the cabinet, provided the erroneous

lien or levy was caused by cabinet error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the cabinet and provided information or documentation sufficient to establish his or her position. When the cabinet releases any such erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation thereof, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) The cabinet shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by cabinet employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the cabinet. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any such proceeding brought by a taxpayer is ruled frivolous by the board, the cabinet shall be reimbursed by the taxpayer for its costs in defending the action.

(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any information or documents attached thereto. Except as provided by KRS 131.190, no information pertaining to such returns, reports or the affairs of a person's business shall be divulged by te cabinet to any person.

Section 4. KRS 131.110 is amended to read as follows:

(1) The Revenue Cabinet shall mail to the taxpayer a notice of any tax assessed by it. The assessment shall be ***due and payable*** [~~final~~] if not protested in writing to the cabinet within forty-five (45) days from the date of notice. ***Claims for refund of paid assessments may be made under KRS 134.580 and denials appealed under KRS 131.340.*** The protest shall be accompanied by a supporting statement setting forth the grounds upon which the protest is made. Upon written request, the cabinet may extend the time for filing the supporting statement if it appears the delay is necessary and unavoidable. The refusal of ***the*** [~~such~~] extension may be reviewed in the same manner as a protested assessment.

(2) After a timely protest has been filed, the taxpayer may request a conference with the cabinet. The request shall be granted in writing stating the date and time set for the conference. The taxpayer may appear in person or by representative. Further conferences may be held by mutual agreement.

(3) After considering the taxpayer's protest, including any matters presented at the final conference, the cabinet shall issue a final ruling on any matter still in controversy, which shall be mailed to the taxpayer. The ruling shall state that it is a final ruling of the cabinet, generally state the issues in controversy, the cabinet's position thereon and set forth the procedure for prosecuting an appeal to the Kentucky Board of Tax Appeals.

(4) The taxpayer may request in writing a final ruling at any time after filing a timely protest and supporting statement. When a final ruling is requested, the cabinet shall issue such ruling within thirty (30) days from the date the request is received by the cabinet.

(5) After a final ruling has been issued, the taxpayer may appeal to the Kentucky Board of Tax Appeals pursuant to the provisions of KRS 131.340.

Section 5. KRS 135.070 is amended to read as follows:

(1) ***Notwithstanding the provisions of KRS 131.030(1),*** no ***property tax case pending in the Board of Tax Appeals or the Kentucky Courts*** [~~action~~] shall be settled by any employee of the cabinet except by judgment in open court, and no compromise or agreed judgment shall be entered in any [~~such~~] action until there is filed with the secretary of revenue a statement, verified on oath by an employee involved in the action, stating the facts and showing the reasons why a compromise or agreed judgment should be entered, and stating further that no agreement or settlement other than the one (1) stated in the proposed judgment

has been entered into by him or anyone for him, and that the proposed settlement is for the best interest of the state.

(2) Upon receiving the statement the Revenue Cabinet shall investigate the action in which it is proposed to enter a compromise or agreed judgment, and if satisfied it is for the best interest of the state, the secretary shall approve the statement and send it to the appropriate employee who shall file it in the court in which the action is pending. The approved statement shall authorize the court, as far as the state, county, school or other taxing district for which the secretary is acting as relator is concerned, to enter the compromise or agreed judgment.

Section 6. KRS 139.070 is amended to read as follows:

(1) "Occasional sale" includes:

(a) A sale of property not held or used by a seller in the course of an activity for which he is required to hold a seller's permit. ***Notwithstanding the provisions of KRS 139.110(1)(c), sales of property that have been principally used by the seller in a nonretail activity will qualify as occasional sales without regard to the number of transactions within a twelve (12) month period***[~~, provided such sale is not one (1) of a series of sales sufficient in number, scope and character to constitute an activity requiring the holding of a seller's permit~~].

(b) Any transfer of all or substantially all the property held or used by a person in the course of such an activity when after such transfer the real or ultimate ownership of such property is substantially similar to that which existed before such transfer.

(2) For the purposes of this section, stockholders, bondholders, partners or other persons holding an interest in a corporation or other entity are regarded as having the "real or ultimate ownership" of the property of such corporation or other entity.

The Committee Amendment No. 1 to **SB 383** is as follows:

Amend printed copy of **SB 383/GA** as follows:

On page 12, lines 1 through 6, by deleting the new, underscored language appearing on lines 1 through 6;

line 6, by removing the beginning bracket before the comma ",";

line 9, by removing the ending bracket after the word "permit" and removing the strike throughs through the intervening language; and

line 9, by adding after the period "." the following:

"***In the case of the sale of the entire, or a substantial portion of the nonretail assets of the seller, the number of previous sales of similar assets shall be disregarded in determining whether or not the current sale or sales shall qualify as an occassional sale.***"

Calendar

HB 754, **SB 242**, **SB 270**, **SB 291**, **SB 311**, **SB 18**, **SB 86**, **SB 109**, **SB 229**, **SB 420** and **SCR 76** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **SB 260**, **SB 308**, **SB 18**, **SB 86**, **SB 109**, **SB 229**, **SB 270**, **SB 311**, **SB 420**, **SCR 76** and **SB 151** have been posted for passage in the Orders of the Day for March 24, 1992.

Orders of the Day

SJR 85, with Committee Amendment and Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bentley moved the adoption of Committee Amendment No. 1 to **SJR 85**. Agreed.

Representative Bentley moved that **SJR 85**, as amended, be adopted.

On the roll call the vote was: Yeas 86, Nays 0. (See March 23, 1992 roll call on **SJR 85** - Appendix.)

SJR 85, as amended, was passed.

Representative Bentley moved the adoption of the Committee Title Amendment to **SJR 85**. Agreed; and the title was agreed to.

Representative Bentley moved that the vote by which **SJR 85**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 67 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **SJR 67** be adopted.

On the roll call the vote was: Yeas 88, Nays 0. (See March 23, 1992 roll call on **SJR 67** - Appendix.)

SJR 67 was adopted.

Floor Amendments (Continued)

Floor Amendment No. 4 to **SB 114**, by Representative Allen:

Amend printed copy of **SB 114/GA** as follows:

on page 91, line 17, by adding after the period "***If the beneficiary dies prior to the member, the member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.***"; and on page 91, line 23, by adding after the period "***If the beneficiary dies prior to the member, the member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.***"; and

on page 92, line 2, by adding after the period "***If the beneficiary dies prior to the member, the member's retirement allowance shall increase to the amount that would have been payable as a single life annuity.***"; and

on page 168, line 5, by adding thereafter "Section 62. The amendments of Section 37 of this Act shall be retroactive to July 13, 1990.".

Floor Amendment No. 1 to **SB 301**, by Representative Long:

Amend printed copy of **SB 301/GA** as follows:

On page 8, after line 17, add

"Section 9. KRS 56.813 is amended to read as follows:

(1) An agency may request that the Finance and Administration Cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for the additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(2) ***(a) When an agency occupying leased premises desires improvements in the premises, the agency shall obtain the cabinet secretary's approval for the improvements at an estimated cost before the lessor makes the improvements.***

1. If the improvements cost more than one thousand dollars ($1,000), the agency shall obtain the cabinet secretary's approval for the rent increase necessary to amortize the cost of the improvements in full. No other financing method shall be used.

2. If the improvements cost one thousand dollars ($1,000) or less, the agency shall obtain the cabinet secretary's approval for the dollar amount necessary to pay for the cost of the improvements at direct state expense or the rent increase necessary to amortize the cost of the improvements in full. No other financing method shall be used. No improvement shall be artificially divided so as to qualify under the provisions of this subparagraph.

(b) Any rent increase necessary to amortize a cost pursuant to paragraph (a) of this subsection shall not extend beyond the period required to accomplish the agreed amortization.

(c) The cabinet secretary shall amend a lease to reflect a rent increase necessary to amortize a cost pursuant to paragraphs (a) and (b) of this subsection, and the amendment shall state that the rent increase is for the purpose of amortizing this cost. [~~The cabinet may amend a lease of private property to provide for an increase in the rental rate when the lessor has made improvements in the leased property at the request of and to meet the needs of the state agency occupying the premises, if the improvements and rent increase have the prior approval of the cabinet secretary. The rent increase shall be, and shall be identified as being, for the purpose of amortizing in full or in part the cost incurred by the owner at the state's request. Any increase for this purpose shall not extend beyond the period required to accomplish the agreed amortization.~~

~~(3) No improvement of a permanent nature shall be made at direct state expense in privately leased property. No improvements of a permanent nature may be made at direct state expense in publicly-owned leased property unless the Commonwealth shall have the leasehold interest in the property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.~~]

(3)[~~(4)~~] Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be made pursuant to KRS 56.805(3) and (4) and this section.

(4)[~~(5)~~] The Division of Real Properties, within the Department for Facilities Management, shall maintain a register of all proposed lease modifications which, if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during the period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving comments, if the secretary determines that the proposed modifications are not in the interest of the Commonwealth, he may require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor, under any lease proposed to be modified as contemplated therein, shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of, the modifications of the lease.

Section 10. KRS 56.823 is amended to read as follows:

(1) The Finance and Administration Cabinet shall report information on leases and lease modifications awarded pursuant to KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190 to the Capital Projects and Bond Oversight Committee as required by this section.

(2) Any lease awarded pursuant to KRS 56.803 for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include:

(a) The name of the agency that will occupy the premises;

(b) The name of the lessor;

(c) The terms of the lease;

(d) The reason for the lease;

(e) A copy of the writing required by KRS 56.803(17);

(f) A statement as to whether the Finance and Administration Cabinet complied with the requirements established in KRS 56.800 to 56.823 and KRS 43.050, 48.111, and 48.190. If the cabinet has not complied with any requirement, the cabinet shall explain why;

(g) An explanation of why the Finance and Administration Cabinet chose this lessor over his competition; and

(h) A cost comparison between the cost per square foot of the leased space and the average cost per square foot of comparable space the state leases in the same county. If there are factors which make the comparison misleading, the cabinet shall inform the committee of these factors.

(3) Any lease awarded pursuant to KRS 56.805(2) for which the annual rental cost will exceed two hundred thousand dollars ($200,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section and the procedure the department followed to obtain the lease. The report shall also include a copy of the writing required by KRS 56.805(2).

(4) Any lease awarded as the result of an emergency described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

(a) The information required by paragraphs (a), (b), (f), (g), and (h) of subsection (2) of this section;

(b) The terms of lease before and after the emergency; and

(c) The procedure the department followed after the emergency to obtain a lease.

(5) (a) Any built-to-suit lease awarded pursuant to KRS 56.816 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall state on what basis the Department for Facilities Management has determined that there is no space to let in the relevant community that will be suitable to meet the space needs of the agency; on what basis a determination has been made by the secretary of the Finance and Administration Cabinet, with the approval of the Governor, that the construction of a building by the Commonwealth to meet the need is not economically or otherwise feasible; and the economic justification for awarding a built-to-suit lease pursuant to KRS 56.816. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(b) Any built-to-suit lease awarded pursuant to KRS 56.820 shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the written finding and executive order required by KRS 56.820(1) and the economic justification for awarding a built-to-suit lease pursuant to KRS 58.820. The report shall further state the information required by paragraphs (a), (b), (c), (d), (f), (g), and (h) of subsection (2) of this section.

(6) Whenever any lease contains a purchase option which is ultimately exercised by the Commonwealth, within thirty (30) days after the purchase, it shall be reported to the Capital Projects and Bond Oversight Committee. The report shall state the total cost of the building to the Commonwealth including rent payments made prior to the purchase.

(7) (a) Except in the case of an emergency as provided in paragraph (b) of this subsection, any modification to an existing lease, made pursuant to KRS 56.813, that is less than fifty thousand dollars ($50,000) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution, and any modification to an existing lease, made pursuant to KRS 56.813, that is fifty thousand dollars ($50,000) or more shall be reported to the Capital Projects and Bond Oversight Committee before execution. In either case, the report shall consist of:

1. The terms of the lease before and after modification;

2. The reason for the modification;

3. The name of the lessor;

4. Any comments received from the public pursuant to KRS 56.813***(4)***[~~(5)~~]; and

5. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why.

(b) Any modification to an existing lease which is required because of an emergency as described at KRS 56.805(3) shall be reported to the Capital Projects and Bond Oversight Committee within thirty (30) days after execution. The report shall include a copy of the certificate or the certificate and the Governor's authorization, as appropriate, kept on file pursuant to KRS 56.805(4) and shall further state:

1. The terms of the lease before and after modification;

2. The name of the lessor;

3. Any comments received from the public pursuant to KRS 56.813***(4)***[~~(5)~~]; and

4. A statement as to whether the Finance and Administration Cabinet complied with the requirements in KRS 56.805(3) and (4) and in KRS 56.813. If the cabinet has not complied with any requirement, the cabinet shall explain why."

Orders of the Day (Continued)

SB 50, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richardson moved the adoption of Committee Amendment No. 2 to **SB 50**. Agreed.

Representative Richardson moved the adoption of Committee Amendment No. 1 to **SB 50**. Agreed.

Representative Richardson moved that **SB 50**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 23, 1992 roll call on **SB 50** - Appendix.)

SB 50, as amended, was passed and the title agreed to.

Representative Richardson moved that the vote by which **SB 50**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 74 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **SB 74** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 23, 1992 roll call on **SB 74** - Appendix.)

SB 74 was passed and the title agreed to.

Representative Noe moved that the vote by which **SB 74** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 468, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 468** is as follows:

Amend printed copy of **HB 468/GA** as follows:

Page 2, line 10, after the word Total, insert "250,000" in the fiscal year 1991-92 column;

Page 3, line 16, after the word Total, insert "250,000" in the fiscal year 1991-92 column;

Page 5, line 18, by deleting the amount "7,366,800" and inserting in lieu thereof the amount "7,866,800";

Page 5, line 18, by deleting the amount "7,581,800" and inserting in lieu thereof the amount "8,081,800";

Page 5, line 21, by deleting the amount "12,960,200" and inserting in lieu thereof the amount "13,460,200";

Page 5, line 21, by deleting the amount "13,042,600" and inserting in lieu thereof the amount "13,542,600";

Page 5, line 25, by deleting the amount "11,202,100" and inserting in lieu thereof the amount "11,394,500";

Page 6, line 2, by deleting the amount "11,497,100" and inserting in lieu thereof the amount "11,689,500";

Page 6, line 5, by deleting the amount "12,174,400" and inserting in lieu thereof the amount "11,999,400";

Page 6, line 5, by deleting the amount "12,379,300" and inserting in lieu thereof the amount "12,359,300";

Page 6, line 7, by deleting the amount "12,184,400" and inserting in lieu thereof the amount "12,009,400";

Page 6, line 7, by deleting the amount "12,389,300" and inserting in lieu thereof the amount "12,369,300";

Page 6, line 10, by deleting the amount "23,376,500" and inserting in lieu thereof the amount "23,393,900";

Page 6, line 10, by deleting the amount "23,917,500" and inserting in lieu thereof the amount "23,897,500";

Page 6, line 13, by deleting the amount "23,681,500" and inserting in lieu thereof the amount "23,698,900";

Page 6, line 13, by deleting the amount "24,236,200" and inserting in lieu thereof the amount "24,216,200";

Page 8, line 4, by deleting, "FY" before "1992-93"; and by deleting "FY" before "1993-94";

Page 8, line 5, by deleting the amount "8,248,300" and inserting in lieu thereof the amount "8,128,300";

Page 8, line 8, by deleting the amount "19,653,500" and inserting in lieu thereof the amount "19,533,500";

Page 8, by deleting lines 22 to 25 in their entirety;

Page 9, line 1, by deleting, "FY" before "1992-93"; and by deleting "FY" before "1993-94";

Page 9, line 2, by deleting the amount "6,340,000" and inserting in lieu thereof the amount "5,600,000";

Page 9, line 2, by deleting the amount "7,632,000" and inserting in lieu thereof the amount "6,900,000";

Page 9, line 3, by deleting the amount "2,110,000" and inserting in lieu thereof the amount "1,200,000";

Page 9, line 3, by deleting the amount "2,467,000" and inserting in lieu thereof the amount "1,500,000";

Page 9, line 4, by deleting the amount "1,341,000" and inserting in lieu thereof the amount "900,000";

Page 9, line 4, by deleting the amount "1,898,000" and inserting in lieu thereof the amount "1,100,000";

Page 9, line 5, by deleting the amount "9,791,000" and inserting in lieu thereof the amount "7,700,000";

Page 9, line 5, by deleting the amount "11,997,000" and inserting in lieu thereof the amount "9,500,000";

Page 9, line 17, by deleting the amount "14,588,300" and inserting in lieu thereof the amount "13,728,300";

Page 9, line 17, by deleting the amount "16,183,000" and inserting in lieu thereof the amount "15,451,000";

Page 9, line 18, by deleting the amount "3,547,400" and inserting in lieu thereof the amount "2,637,400";

Page 9, line 18, by deleting the amount "3,685,400" and inserting in lieu thereof the amount "2,718,400";

Page 9, line 19, by deleting the amount "11,308,800" and inserting in lieu thereof the amount "10,867,800";

Page 9, line 19, by deleting the amount "7,804,000" and inserting in lieu thereof the amount "7,006,000";

Page 9, line 20, by deleting the amount "29,444,500" and inserting in lieu thereof the amount "27,233,500";

Page 9, line 20, by deleting the amount "27,672,400" and inserting in lieu thereof the amount "25,175,400";

Page 10, line 16, by deleting the amount "3,271,000" and inserting in lieu thereof the amount "1,300,000";

Page 10, line 16, by deleting the amount "2,291,000" and inserting in lieu thereof the amount "2,700,000";

Page 10, line 19, by deleting the amount "7,494,500" and inserting in lieu thereof the amount "5,523,500";

Page 10, line 19, by deleting the amount "6,651,700" and inserting in lieu thereof the amount "7,059,800";

Page 10, line 22, by deleting the amount "20,776,200" and inserting in lieu thereof the amount "18,805,200";

Page 10, line 22, by deleting the amount "22,086,300" and inserting in lieu thereof the amount "22,494,400";

Page 14, line 13, by deleting "164.894", and inserting in lieu thereof "164.892";

Page 16, line 19, by deleting the words "and the Attorney General";

Page 17, line 12, by deleting the amount "1,422,800" and inserting in lieu thereof the amount "1,562,800";

Page 17, line 12, by deleting the amount "1,465,500" and inserting in lieu thereof the amount "1,605,500";

Page 17, line 15, by deleting the amount "1,586,500" and inserting in lieu thereof the amount "1,726,500";

Page 17, line 15, by deleting the amount "1,559,600" and inserting in lieu thereof the amount "1,699,600";

Page 18, line 17, by deleting the amount "922,500" for fiscal year 1993-94;

Page 18, line 19, by deleting the amount "10,648,600" and inserting in lieu thereof the amount "9,726,100";

Page 23, line 7, by deleting the amount "149,373,200" and inserting in lieu thereof the amount "147,199,600";

Page 23, line 7, by deleting the amount "152,357,200" and inserting in lieu thereof the amount "151,730,800";

Page 23, line 8, by deleting the amount "76,917,400" and inserting in lieu thereof the amount "76,007,400";

Page 23, line 8, by deleting the amount "79,443,100" and inserting in lieu thereof the amount "78,476,100";

Page 23, line 9, by deleting the amount "47,072,300" and inserting in lieu thereof the amount "46,631,300";

Page 23, line 9, by deleting the amount "43,568,400" and inserting in lieu thereof the amount "42,770,400";

Page 23, line 10, by deleting the amount "273,362,900" and inserting in lieu thereof the amount "269,838,300";

Page 23, line 10, by deleting the amount "275,368,700" and inserting in lieu thereof the amount "272,977,300";

Page 23, by deleting line 13;

Page 23, after line 14 and before line 15, by adding the following:

"1991-92 1992-93 1993-94";

Page 23, line 15, after the words "General Fund" and before the amount "1,618,800" by adding the amount "500,000" for fiscal year 1991-92.

Page 23, line 17, after the word "Total" and before the amount "1,658,800" by adding the amount "500,000" for fiscal year 1991-92.

Page 23, after line 18 and before line 19, by adding the following:

"1992-93 1993-94";

Page 23, after line 22 and before line 23, by adding the following:

"1992-93 1993-94";

Page 23, after line 24 and before line 25, by adding the following:

"1992-93 1993-94";

Page 23, line 25, by deleting the amount "3,111,200" and inserting the amount "2,953,100"; and by deleting the amount "3,078,600" and inserting the amount "2,915,800";

Page 23, line 26, by deleting the amount "187,500" and inserting the amount "136,300"; and by deleting the amount "185,000" and inserting the amount "138,600";

Page 24, line 2, by deleting the amount "3,418,700" and inserting the amount "3,209,400"; and by deleting the amount "3,387,400" and inserting the amount "3,178,200";

Page 24, after line 3 and before line 4, by adding the following:

"1992-93 1993-94";

Page 24, after line 6 and before line 7, by adding the following:

"TOTAL - ECONOMIC DEVELOPMENT

"1991-92 1992-93 1993-94";

Page 24, line 7, after the word "General Fund" and before the amount "53,368,700" by inserting the amount "500,000"; and by deleting the amount "53,368,700" and inserting the amount "53,210,600"; and by deleting the amount "57,749,400" and inserting the amount "57,586,600";

Page 24, line 8, by deleting the amount "1,919,500" and inserting the amount "1,868,300"; and by deleting the amount "1,947,000" and inserting the amount "1,900,600";

Page 24, line 10, by deleting the word "Total" and inserting in lieu thereof "TOTAL"; and after the word "TOTAL" and before the amount "55,408,200" by inserting the amount "500,000";

Page 24, line 10, by deleting the amount "55,408,200" and inserting the amount "55,198,900"; and by deleting the amount "59,820,200" and inserting the amount "59,611,000";

Page 24, after line 10 and before line 11, by adding the following:

"Included in the General Fund appropriation in fiscal year 1991-92 is $500,000 for feasibility studies, environmental analysis, site evaluation, and job creation pre-commitment expenses. Notwithstanding the provisions of KRS 45.229, the General Fund appropriation of $500,000 shall be continued and not lapse.";

Page 26, delete lines 20 to 25 in their entirety;

Page 27, line 4, by deleting the amount "1,673,535,100" and inserting the amount "1,677,335,100";

Page 27, line 4, by deleting the amount "1,699,236,200" and inserting the amount "1,703,236,200";

Page 27, line 7, by deleting the amount "1,766,395,100" and inserting the amount "1,770,195,100";

Page 27, line 7, by deleting the amount "1,803,336,200" and inserting the amount "1,807,336,200";

Page 27, line 24, by deleting the amount "1,468,752,900" and inserting in lieu thereof the amount "1,472,552,900";

Page 27, line 25, by deleting the amount "1,500,579,700" and inserting in lieu thereof the amount "1,504,579,700";

Page 34, line 2, after "eight" by adding the following: ", notwithstanding the provisions of KRS 156.400 to 156.476";

Page 36, line 9, by deleting the amount "118,456,100" and inserting the amount "112,356,800";

Page 36, line 9, by deleting the amount "136,890,100" and inserting the amount "131,390,600";

Page 36, line 12, by deleting the amount "283,258,100" and inserting the amount "277,158,800";

Page 36, line 12, by deleting the amount "301,866,000" and inserting the amount "296,366,500";

Page 36, line 16, by deleting the amount "33,757,000" and inserting in lieu thereof the amount "25,700,000";

Page 36, line 16, by deleting the amount "37,299,000" and inserting in lieu thereof the amount "29,700,000";

Page 36, after line 21 and before line 22, by adding the following: "$1,957,700 in fiscal year 1992-93 and $2,099,500 in fiscal year 1993-94 for Regional Service Centers";

Page 36, after line 23 and before line 24, by adding the following:

"The Department of Education shall approve local grants consistent with the program guideline and transportation requirements for the Extended School Service program as provided in this Act.";

Page 37, after line 9 and before line 10, by adding the following:

"Included in the above General Fund appropriation is $400,000 in fiscal year 1992-93 and $400,000 in fiscal year 1993-94 for the minority teacher recruitment and training program.";

Page 37, line 12, by deleting the amount "13,434,700" and inserting the amount "19,534,700";

Page 37, line 12, by deleting the amount "18,928,600" and inserting the amount "21,428,600";

Page 37, line 15, by deleting the amount "13,924,700" and inserting the amount "20,024,700";

Page 37, line 15, by deleting the amount "19,382,400" and inserting the amount "21,882,400";

Page 37, on line 17 after the figure "$5,100,000", insert the following "in fiscal year 1992-93 and $6,600,000"

Page 37, on line 17, after the term "Assessment" insert the following: "$1,000,000 in each fiscal year for Continuous Assessment"

Page 38, line 1, by deleting the amount "1,977,364,400" and inserting the amount "1,981,165,100";

Page 38, line 1, by deleting the amount "2,072,765,700" and inserting the amount "2,073,766,200";

Page 38, line 5, by deleting the amount "2,346,330,400" and inserting the amount "2,350,131,000";

Page 38, line 5, by deleting the amount "2,458,548,900" and inserting the amount "2,459,549,400";

Page 38, line 9, by deleting the amount "4,260,800" and inserting the amount "4,519,000";

Page 38, line 9, by deleting the amount "4,388,400" and inserting the amount "4,624,400";

Page 38, line 12, by deleting the amount "5,018,900" and inserting the amount "5,328,300";

Page 38, line 12, by deleting the amount "5,129,000" and inserting the amount "5,411,400";

Page 38, after line 25 and before line 26, by adding the following:

"Also included in the above General Fund appropriation is $285,200 in fiscal year 1992-93 and $263,000 in fiscal year 1993-94 for the Crafts Marketing program which was previously situated in the Cabinet for Economic Development.";

Page 38, by deleting line 26 in its entirety;

Page 39, by deleting lines 1 to 2 in their entirety;

Page 39, line 3, delete "32." and insert in lieu thereof "31.", and renumber thereafter;

Page 42, line 13, by deleting the amount "721,600" and inserting in lieu thereof the amount "730,600";

Page 42, line 13, by deleting the amount "713,000" and inserting in lieu thereof the amount "753,000";

Page 42, line 16, by deleting the amount "1,615,600" and inserting in lieu thereof the amount "1,624,600";

Page 41, line 16, by deleting the amount "1,653,100" and inserting in lieu thereof the amount "1,693,100";

Page 43, line 19, by deleting the amount "149,047,600" and inserting in lieu thereof the amount "149,178,700";

Page 43, line 19, by deleting the amount "150,216,900" and inserting in lieu thereof the amount "150,352,700";

Page 43, line 20, by deleting the amount "5,477,600" and inserting in lieu thereof the amount "5,528,800";

Page 43, line 20, by deleting the amount "5,724,900" and inserting in lieu thereof the amount "5,771,300";

Page 43, line 22, by deleting the amount "158,642,500" and inserting in lieu thereof the amount "158,824,800";

Page 43, line 22, by deleting the amount "160,080,200" and inserting in lieu thereof the amount "160,262,400";

Page 44, line 15, by deleting the word "1993" and inserting in lieu thereof "1992-93", and by deleting the word "1994" and inserting in lieu thereof "1993-94";

Page 45, line 26, by deleting the amount "7,645,000" and inserting in lieu thereof the amount "8,110,900";

Page 45, line 26, by deleting the amount "8,964,400" and inserting in lieu thereof the amount "9,982,300";

Page 46, line 2, by deleting the amount "8,462,800" and inserting in lieu thereof the amount "8,928,700";

Page 46, line 2, by deleting the amount "9,782,200" and inserting in lieu thereof the amount "10,800,100";

Page 46, after line 11 and before line 12 by adding the following:

"Contingent upon the passage of **HB 450**, all funds appropriated for Equine programs at the State Universities shall be expended only for capital projects."

Page 46, by deleting lines 12 to 16 in their entirety;

Page 46, line 20, by deleting the amount "18,475,900" and inserting in lieu thereof the amount "20,475,900";

Page 46, line 20, by deleting the amount "19,090,200" and inserting in lieu thereof the amount "21,090,200";

Page 46, line 21, by deleting the amount "12,191,300" and inserting in lieu thereof the amount "9,191,300";

Page 46, line 21, by deleting the amount "12,393,900" and inserting in lieu thereof the amount "9,393,900";

Page 46, line 23, by deleting the amount "31,670,300" and inserting in lieu thereof the amount "30,670,300";

Page 46, line 23, by deleting the amount "32,487,300" and inserting in lieu thereof the amount "31,487,300";

Page 48, line 1, by deleting the words: "Also included in the Restricted Funds";

Page 48, by deleting lines 2 to 3 in their entirety;

Page 48, line 7, by deleting the amount "52,046,200" and inserting in lieu thereof the amount "51,993,600";

Page 48, line 7, by deleting the amount "53,488,600" and inserting in lieu thereof the amount "53,391,500";

Page 48, line 10, by deleting the amount "127,736,200" and inserting in lieu thereof the amount "127,683,600";

Page 48, line 10, by deleting the amount "130,084,400" and inserting in lieu thereof the amount "129,987,300";

Page 48, line 20, by deleting the amount "18,024,100" and inserting in lieu thereof the amount "18,006,900";

Page 48, line 20, by deleting the amount "18,613,500" and inserting in lieu thereof the amount "18,581,800";

Page 48, line 23, by deleting the amount "35,069,300" and inserting in lieu thereof the amount "35,052,100";

Page 48, line 23, by deleting the amount "36,657,900" and inserting in lieu thereof the amount "36,626,600";

Page 49, line 7, by deleting the amount "31,416,900" and inserting in lieu thereof the amount "31,385,400";

Page 49, line 7, by deleting the amount "32,277,100" and inserting in lieu thereof the amount "32,296,900";

Page 49, line 10, by deleting the amount "77,108,500" and inserting in lieu thereof the amount "77,077,000";

Page 49, line 10, by deleting the amount "82,098,600" and inserting in lieu thereof the amount "82,118,400";

Page 49, after line 13 and before line 14, by adding the following:

"Included in the above General Fund appropriation is $77,900 in fiscal year 1993-94 for maitenance and operation of new facilities coming on line during the 1992-94 biennium."

Page 49, line 16, by deleting the amount "37,081,300" and inserting in lieu thereof the amount "37,043,300";

Page 49, line 16, by deleting the amount "38,116,400" and inserting in lieu thereof the amount "38,046,200";

Page 49, line 19, by deleting the amount "76,629,100" and inserting in lieu thereof the amount "76,591,100";

Page 49, line 19, by deleting the amount "78,949,700" and inserting in lieu thereof the amount "78,879,500";

Page 49, line 25, by deleting the amount "28,816,500" and inserting in lieu thereof the amount "28,789,800";

Page 49, line 25, by deleting the amount "29,570,400" and inserting in lieu thereof the amount "29,521,000";

Page 50, line 2, by deleting the amount "64,159,000" and inserting in lieu thereof the amount "64,132,300";

Page 50, line 2, by deleting the amount "67,071,900" and inserting in lieu thereof the amount "67,022,500";

Page 50, line 12, by deleting the amount "238,411,800" and inserting in lieu thereof the amount "238,714,400";

Page 50, line 12, by deleting the amount "245,800,700" and inserting in lieu thereof the amount "245,894,000";

Page 50, line 13, by deleting the amount "395,146,500" and inserting in lieu thereof the amount "400,034,700";

Page 50, line 15, by deleting the amount "674,470,000" and inserting in lieu thereof the amount "674,776,600";

Page 50, line 15, by deleting the amount "697,669,000" and inserting in lieu thereof the amount "702,650,900";

Page 50, after line 26, by adding the following:

"Included in the above General Fund appropriations is $50,000 each year to be expended to comply with the Rural Health Care provisions of **HB 310**.

Included in the above General Fund appropriations is $500,000 each year to be expended to provide maintenance for off-campus agricultural facilities.

Included in the above Restricted funds is $4,888,200 in fiscal year 1993-94 from non-state sources to pay the debt service on the $46,000,000 bond authorization for the Commonwealth Library.";

Page 51, line 4, by deleting the amount "70,900,800" and inserting in lieu thereof the amount "70,837,300";

Page 51, line 4, by deleting the amount "73,147,500" and inserting in lieu thereof the amount "73,030,200";

Page 51, line 7, by deleting the amount "133,308,200" and inserting in lieu thereof the amount "133,244,700";

Page 51, line 7, by deleting the amount "137,001,600" and inserting in lieu thereof the amount "136,884,300";

Page 51, after line 14 and before line 15, by adding the following:

"In the event that private (non-state) funds up to two million dollars become available, authority is provided for the Hazard Community College to undertake design/planning and other pre-construction activities for the Hazard Community College-Student/Performing Arts/Conference Center project in fiscal year 1992-93.";

Page 51, line 17, by deleting the amount "133,208,200" and inserting in lieu thereof the amount "133,086,400";

Page 51, line 17, by deleting the amount "137,467,600" and inserting in lieu thereof the amount "137,242,700";

Page 51, line 20, by deleting the amount "319,266,200" and inserting in lieu thereof the amount "319,104,400";

Page 51, line 20, by deleting the amount "327,290,600" and inserting in lieu thereof the amount "327,065,700";

Page 52, line 13, by deleting the amount "49,413,900" and inserting in lieu thereof the amount "49,682,600;

Page 52, line 13, by deleting the amount "50,814,400" and inserting in lieu thereof the amount "51,050,800";

Page 52, line 16, by deleting the amount "105,031,000" and inserting in lieu thereof the amount "105,299,700";

Page 52, line 16, by deleting the amount "107,570,900" and inserting in lieu thereof the amount "107,807,300";

Page 52, after line 19 and before line 20, by adding the following:

"Included in the above General Fund appropriation is $320,000 in fiscal year 1992-93 and $331,000 in fiscal year 1993-94 for maintenance and operation of new facilities coming on line during the 1992-94 biennium.";

Page 52, line 22, by deleting the amount "685,440,600" and inserting in lieu thereof the amount "688,126,500";

Page 52, line 22, by deleting the amount "707,350,800" and inserting in lieu thereof the amount "710,127,600";

Page 52, line 23, by deleting the amount "822,056,000" and inserting in lieu thereof the amount "819,056,000";

Page 52, line 23, by deleting the amount "851,603,200" and inserting in lieu thereof the amount "853,491,400";

Page 52, line 25, by deleting the amount "1,652,874,600" and inserting in lieu thereof the amount "1,652,560,500";

Page 52, line 25, by deleting the amount "1,706,664,500" and inserting in lieu thereof the amount "1,711,329,500";

Page 58, line 1, after the word "beds" by inserting the words ", notwithstanding KRS 205.621(2)";

Page 58, after line 6 and before line 7, insert the following:

"In recognition of the current budget needs of the Commonwealth, the financial condition of state government, and the necessity of the Department for Medicaid Services to be given flexibility in the determination of levels of payments to vendors, notwithstanding the provisions of KRS 205.575 (6) and (7) relating to the distribution of Hospital Indigent Care Assurance Program (HICAP) payments, KRS 205.576 (7), (10), (11), and (12) relating to the distribution of cost-based providers, KRS 205.577 (6), (9), (10), and (11) relating to distribution of medical provider assessments under the medical assistance program, and KRS 205.621, the distribution of HICAP and provider assessment payments shall be governed by regulations promulgated by the Cabinet for Human Resources designed to make maximum use of available budgetary resources. This language shall not operate to repeal or amend KRS 205.575 (6) and (7), KRS 205.576 (7), (10), (11), and (12), KRS 205.577 (6), (9), (10), and (11), or KRS 205.621.

No hospital may be reimbursed from both the Quality and Charity Care Trust Fund and the Hospital Indigent Care Assurance Program (HICAP), as established by KRS 205.575, for the same service to the same patient. Any hospital which knowingly violates this provision shall be subject to a penalty equal to three times the amount of the improper charge to the funds, which amount shall be credited to the General Fund. The Secretary of the Cabinet for Human Resources shall have the authority to secure such patient information as needed from the participating facilities in order to determine compliance and enforce this provision.";

Page 58, line 26, after "during", by adding the following: "fiscal year 1991-92 and";

Page 59, line 5, by deleting the amount "45,659,000" and inserting in lieu thereof the amount "45,434,000";

Page 59, line 8, by deleting the amount "158,058,600" and inserting in lieu thereof the amount "157,833,600";

Page 59, line 16, by deleting the amount "117,174,000" and inserting in lieu thereof the amount "117,274,000";

Page 59, line 16, by deleting the amount "122,231,500" and inserting in lieu thereof the amount "123,356,500";

Page 59, line 19, by deleting the amount "199,183,300" and inserting in lieu thereof the amount "199,283,300";

Page 59, line 19, by deleting the amount "208,213,000" and inserting in lieu thereof the amount "209,338,000";

Page 59, line 25, by deleting the amount "108,398,400" and inserting in lieu thereof the amount "108,298,400";

Page 59, line 25, by deleting the amount "128,545,000" and inserting in lieu thereof the amount "127,645,000";

Page 60, line 2, by deleting the amount "242,890,300" and inserting in lieu thereof the amount "242,790,300";

Page 60, line 2, by deleting the amount "251,299,300" and inserting in lieu thereof the amount "250,399,300";

Page 60, line 20, by deleting the amount "38,226,900" and inserting in lieu thereof the amount "38,126,900";

Page 60, line 20, by deleting the amount "39,371,200" and inserting in lieu thereof the amount "39,271,200";

Page 61, by deleting lines 13 through 24 in their entirety;

Page 62, line 15, by deleting the amount "475,700" and inserting in lieu thereof the amount "575,700";

Page 62, line 15, by deleting the amount "439,700" and inserting in lieu thereof the amount "539,700";

Page 62, by deleting lines 16 through 26 in their entirety;

Page 63, by deleting lines 1 through 7 in their entirety;

Page 64, line 10, by deleting the amount "2,510,500" and inserting in lieu thereof the amount "2,119,200";

Page 64, line 10, by deleting the amount "3,012,800" and inserting in lieu thereof the amount "2,184,700";

Page 64, line 13, by deleting the amount "11,167,600" and inserting in lieu thereof the amount "10,776,300";

Page 64, line 13, by deleting the amount "11,641,100" and inserting in lieu thereof the amount "10,813,000";

Page 64, by deleting lines 14 to 21 in their entirety;

Page 66, line 8, by deleting the amount "45,086,000" and inserting in lieu thereof the amount "44,694,700";

Page 66, line 8, by deleting the amount "47,698,100" and inserting in lieu thereof the amount "46,870,000";

Page 66, line 12, by deleting the amount "106,478,000" and inserting in lieu thereof the amount "106,086,700";

Page 66, line 12, by deleting the amount "109,564,900" and inserting in lieu thereof the amount "108,736,800";

Page 66, line 16, by deleting the amount "22,099,100" and inserting in lieu thereof the amount "22,490,400";

Page 66, line 16, by deleting the amount "23,696,400" and inserting in lieu thereof the amount "24,337,600";

Page 66, line 18, by deleting the amount "22,107,600" and inserting in lieu thereof the amount "22,498,900";

Page 66, line 18, by deleting the amount "23,704,900" and inserting in lieu thereof the amount "24,346,100";

Page 67, by deleting lines 10 to 13 in their entirety and inserting in lieu thereof the following:

"Included in the above general fund appropriation is $88,200 in fiscal year 1992-93 and $88,100 in fiscal year 1993-94 to support the debt service on the secure Eastern Kentucky Juvenile Facility in Morehead.

Included in the above general fund appropriation is $303,100 in fiscal year 1992-93 and $553,100 in fiscal year 1993-94 to support the operations of secure and non-secure juvenile facilities in the Commonwealth.";

Page 67, line 16, by deleting the amount "108,329,500" and inserting in lieu thereof the amount "108,854,600";

Page 67, line 16, by deleting the amount "115,065,500" and inserting in lieu thereof the amount "115,950,000";

Page 67, line 17, by deleting the amount "14,331,400" and inserting in lieu thereof the amount "13,931,400";

Page 67, line 17, by deleting the amount "12,757,500" and inserting in lieu thereof the amount "12,307,500";

Page 67, line 19, by deleting the amount "123,632,900" and inserting in lieu thereof the amount "123,758,000";

Page 67, line 19, by deleting the amount "128,795,000" and inserting in lieu thereof the amount "129,229,500";

Page 67, line 21, by deleting the amount "1,097,800" and inserting in lieu thereof the amount "741,100";

Page 67, line 21, by deleting the amount "3,608,800" and inserting in lieu thereof the amount "3,365,300";

Page 67, by deleting lines 25 to 26 in their entirety;

Page 68, by deleting lines 1-6 in their entirety;

Page 68, line 9, by deleting the amount "29,124,400" and inserting in lieu thereof the amount "30,779,400";

Page 68, line 9, by deleting the amount "35,653,100" and inserting in lieu thereof the amount "33,373,900";

Page 68, line 12, by deleting the amount "29,578,100" and inserting in lieu thereof the amount "31,233,100";

Page 68, line 12, by deleting the amount "36,106,800" and inserting in lieu thereof the amount "33,827,600";

Page 68, by deleting lines 13-26 in their entirety;

Page 69, by deleting line 1 in its entirety;

Page 69, line 24, by deleting the amount "175,060,600" and inserting in lieu thereof the amount "177,632,000";

Page 69, line 24, by deleting the amount "189,922,600" and inserting in lieu thereof the amount "189,169,100";

Page 69, line 25, by deleting the amount "14,766,400" and inserting in lieu thereof the amount "14,366,400";

Page 69, line 25, by deleting the amount "13,192,500" and inserting in lieu thereof the amount "12,742,500";

Page 70, line 1, by deleting the amount "190,826,200" and inserting in lieu thereof the amount "192,997,600";

Page 70, line 1, by deleting the amount "204,114,300" and inserting in lieu thereof the amount "202,910,800";

Page 70, line 4, after "a." by adding the following: "Office of the";

Page 70, line 4, after "Secretary" by adding the following: "/Administrative Services";

Page 72, line 3, by deleting the amount "7,303,700" and inserting in lieu thereof the amount "7,956,100";

Page 72, line 3, by deleting the amount "7,617,700" and inserting in lieu thereof the amount "8,286,000";

Page 72, line 4, by deleting the amount "6,554,100" and inserting in lieu thereof the amount "6,571,800";

Page 72, line 4, by deleting the amount "6,207,800" and inserting in lieu thereof the amount "6,252,100";

Page 72, line 6, by deleting the amount "16,529,300" and inserting in lieu thereof the amount "17,199,400";

Page 72, line 6, by deleting the amount "16,335,400" and inserting in lieu thereof the amount "17,048,000";

Page 72, line 19, by deleting the amount "852,400" and inserting in lieu thereof the amount "200,000";

Page 72, line 20, by deleting the amount "868,300" and inserting in lieu thereof the amount "200,000";

Page 72, line 24, by deleting the amount "18,870,400" and inserting in lieu thereof the amount "16,302,000";

Page 72, line 24, by deleting the amount "19,272,600" and inserting in lieu thereof the amount "16,609,800";

Page 72, line 25, by deleting the amount "8,791,800" and inserting in lieu thereof the amount "11,541,900";

Page 72, line 25, by deleting the amount "9,768,500" and inserting in lieu thereof the amount "12,485,900";

Page 73, line 1, by deleting the amount "37,712,900" and inserting in lieu thereof the amount "37,894,600";

Page 73, line 1, by deleting the amount "38,157,600" and inserting in lieu thereof the amount "38,212,200";

Page 73, line 6, by deleting the words "It is the intent of the General Assembly that an" and inserting in lieu thereof the word "An";

Page 73, line 7, after the word "structure" by inserting the word "shall";

Page 73, line 8, by inserting a comma "," after "1992";

Page 74, line 12, by deleting the amount "42,755,600" and inserting in lieu thereof the amount "40,839,600";

Page 74, line 12, by deleting the amount "44,095,000" and inserting in lieu thereof the amount "42,100,500";

Page 74, line 13, by deleting the amount "18,918,100" and inserting in lieu thereof the amount "21,685,900";

Page 74, line 13, by deleting the amount "19,671,700" and inserting in lieu thereof the amount "22,433,400";

Page 74, line 15, by deleting the amount "95,129,400" and inserting in lieu thereof the amount "95,981,200";

Page 74, line 15, by deleting the amount "95,933,000" and inserting in lieu thereof the amount "96,700,200";

Page 75, after line 4 and before line 5, by adding the following:

"Notwithstanding the provisions of KRS 224.60-140, the fees generated pursuant to KRS 224.60-150 shall be in a separate and distinct interest-bearing account.";

Page 75, line 10, by deleting the amount "43,325,300" and inserting in lieu thereof the amount "41,409,300":

Page 75, line 10, by deleting the amount "44,656,200" and inserting in lieu thereof the amount "42,661,700";

Page 75, line 11, by deleting the amount "28,554,500" and inserting in lieu thereof the amount "31,322,300";

Page 75, line 11, by deleting the amount "29,214,100" and inserting in lieu thereof the amount "31,975,800";

Page 75, line 13, by deleting the amount "105,505,800" and inserting in lieu thereof the amount "106,357,600";

Page 75, line 13, by deleting the amount "106,206,200" and inserting in lieu thereof the amount "106,973,400";

Page 75, by deleting lines 23 to 25 in their entirety and inserting in lieu thereof the following:

"Notwithstanding the provisions of KRS 243.080, the twenty-five percent (25%) local license fee credit on state fees for licenses to sell distilled spirits and wine by the package and by the drink and restaurant wine licenses is hereby suspended.";

Page 75, line 26, by deleting the word "repeal" and inserting in lieu thereof the word "suspension";

Page 76, line 17, by deleting the amount "28,008,800" and inserting in lieu thereof the amount "27,758,800";

Page 76, line 17, by deleting the amount "27,953,600" and inserting in lieu thereof the amount "24,335,600";

Page 76, line 19, by deleting the amount "30,921,100" and inserting in lieu thereof the amount "28,671,100";

Page 76, line 19, by deleting the amount "30,953,100" and inserting in lieu thereof the amount "27,335,100";

Page 76, by deleting lines 20 to 26 in their entirety and inserting in lieu thereof the following:

"Notwithstanding the provisions of KRS 318.010, 318.020, 318.040, 318.050, 318.054, and 318.134, and pursuant to 815 KAR 20:030 and 815 KAR 20:050, the department shall fix a reasonable schedule of fees and charges. The following plumbing fees shall be increased at least by the following minimum amounts: plumbing permits-$8, master plumber license-$100, journeyman plumber license-$10, master plumber examination-$50, and journeyman plumber examinations-$25.

Notwithstanding the provisions of KRS 236.120, boiler certificate of inspection fees shall be fifteen dollars ($15).";

Page 77, by deleting lines 1 to 9 in their entirety;

Page 78, line 5, by deleting the amount "7,170,100" and inserting in lieu thereof the amount "7,240,100";

Page 78, line 5, by deleting the amount "7,373,800" and inserting in lieu thereof the amount "7,443,800";

Page 78, line 8, by deleting the amount "8,886,500" and inserting in lieu thereof the amount "8,956,500";

Page 78, line 8, by deleting the amount "9,072,400" and inserting in lieu thereof the amount "9,142,400";

Page 78, line 21, by deleting the amount "541,200" and inserting in lieu thereof the amount "537,700";

Page 78, line 22, by deleting the amount "1,101,900" and inserting in lieu thereof the amount "1,105,400";

Page 79, line 21, by deleting the amount "30,306,000" and inserting in lieu thereof the amount "30,376,000";

Page 79, line 21, by deleting the amount "31,846,700" and inserting in lieu thereof the amount "31,916,700";

Page 79, line 22, by deleting the amount "53,597,800" and inserting in lieu thereof the amount "51,347,800";

Page 79, line 22, by deleting the amount "57,839,000" and inserting in lieu thereof the amount "54,221,000";

Page 79, line 24, by deleting the amount "86,736,100" and inserting in lieu thereof the amount "83,931,900";

Page 79, line 24, by deleting the amount "91,973,300" and inserting in lieu thereof the amount "88,425,300";

Page 80, by deleting lines 6 to 11 in their entirety and inserting in lieu thereof the following:

"Notwithstanding the provisions of KRS 136.392(b), the insurance surcharge rate shall be adjusted to a rate calculated to provide sufficient funds for the 1992-94 enacted budgets, including the administration of training programs, pay supplements prescribed by statute and debt service for the respective program funds specified in KRS 95A.220 and KRS 15.430 fiscal year 1992-93 and fiscal year 1993-94. The calculation of sufficient funds in the enacted budgets, shall include any restricted fund carry forwards from fiscal years 1992, 1993 and 1994, provided by the General Assembly in this Act. Appropriations budgeted for transfer to the General Fund in accordance with the provisions of Part V of this Act shall also be included.";

Page 80, line 14, by deleting the amount "17,161,200" and inserting in lieu thereof the amount "16,161,200";

Page 80, line 14, by deleting the amount "16,615,900" and inserting in lieu thereof the amount "15,615,900";

Page 80, line 15, by deleting the amount "1,096,800" and inserting in lieu thereof the amount "2,096,800";

Page 80, line 15, by deleting the amount "955,200" and inserting in lieu thereof the amount "1,955,200";

Page 80, by deleting lines 24 to 26 in their entirety;

Page 81, by deleting line 1 in its entirety;

Page 82, line 7, by deleting the amount "57,105,800" and inserting in lieu thereof the amount "56,105,800";

Page 82, line 7, by deleting the amount "58,788,800" and inserting in lieu thereof the amount "57,788,800";

Page 82, line 9, by deleting the amount "4,030,100" and inserting in lieu thereof the amount "5,030,100";

Page 82, line 9, by deleting the amount "2,516,600" and inserting in lieu thereof the amount "3,516,600";

Page 82, line 17, by deleting the amount "57,105,800" and inserting in lieu thereof the amount "56,105,800";

Page 82, line 17, by deleting the amount "58,788,800" and inserting in lieu thereof the amount "57,788,800";

Page 82, line 19, by deleting the amount "137,812,300" and inserting in lieu thereof the amount "138,812,300";

Page 82, line 19, by deleting the amount "147,578,300" and inserting in lieu thereof the amount "148,578,300";

Page 83, line 4, by deleting the amount "89,900" for fiscal year 1992-93 and inserting the amount "170,000" for fiscal year 1992-93; and by deleting the amount "89,900" for fiscal year 1993-94 and inserting the amount "170,000" for fiscal year 1993-94;

Page 83, line 9, by deleting the words, "the Governors from both Commonwealths" and insert in lieu thereof the words, "that the Secretary of Tourism";

Page 83, line 10 by deleting the word "written" and inserting in lieu thereof the word "cooperative"; and after the word "regarding" by inserting " reciprocal";

Page 84, line 5, by deleting the amount "$1,103,000" and inserting in lieu thereof "$996,000";

Page 84, line 6, by deleting the word "bienniun" and inserting in lieu thereof the word "biennium";

Page 84, line 20, by inserting the new column heading "1991-92";

Page 84, line 22, by inserting "1,170,500" in FY 1991-92;

Page 84, line 23, by inserting "1,170,500" in FY 1991-92;

Page 85, line 17, by inserting the term "1991-92";

Page 85, line 18, by deleting the amount "40,530,100" and inserting in lieu thereof the amount "40,610,200"; and by deleting the amount "54,694,700" and inserting in lieu thereof the amount "54,774,800";

Page 85, line 19, insert "1,170,500" in FY 1991-92;

Page 85, line 20, insert "1,170,500" in FY 1991-92;

Page 85, line 20, by deleting the amount "122,702,200" and inserting in lieu thereof the amount "122,782,300"; and by deleting the amount "140,393,500" and inserting in lieu thereof the amount "140,473,600";

Page 86, line 17, by deleting the word, "450,000", and inserting in lieu thereof: "500,000";

Page 86, by deleting lines 20-21 in their entirety;

Page 88, line 15, by deleting the amount "116,316,000" for fiscal year 1992-93 and inserting the amount "131,671,500" for fiscal year 1992-93;

Page 88, line 15, by deleting the amount "111,398,500" for fiscal year 1993-94 and inserting the amount "115,248,500" for fiscal year 1993-94;

Page 88, line 21, by deleting the amount "10,000,000" for fiscal year 1993-94 and inserting in lieu thereof the amount "12,400,000";

Page 88, line 24, by deleting the amount "35,000,000" for fiscal year 1992-93 and inserting the amount "50,355,500" for fiscal year 1992-93;

Page 88, line 24, by deleting the amount "33,000,000" for fiscal year 1993-94 and inserting in lieu thereof the amount "34,850,000" for fiscal year 1993-94;

Page 89, line 4, by deleting the words, "Any appropriations to the Highway";

Page 89, by deleting lines 5-7 in their entirety;

Page 89, line 9, by deleting the amount "46,000,000" for fiscal year 1992-93 and inserting in lieu thereof the amount "48,000,000" for fiscal year 1992-93;

Page 89, line 9, by deleting the amount "46,000,000" for fiscal year 1993-94 and inserting in lieu thereof the amount "48,000,000" for fiscal year 1993-94;

Page 89, by deleting lines 18-23 in their entirety;

Page 91, by deleting lines 21-24 in their entirety;

Page 94, line 11, by deleting the amount "6,327,700" and inserting the amount "6,327,000";

Page 95, line 1, by deleting the amount "53,609,500" and inserting the amount "52,735,700";

Page 95, line 1, by deleting the amount "60,217,800" and inserting the amount "58,732,800";

Page 95, line 4, by deleting the amount "106,672,600" and inserting the amount "105,798,800";

Page 95, line 4, by deleting the amount "114,990,700" and inserting the amount "113,505,700";

Page 97, line 8, by deleting the amount "82,355,700" and inserting the amount "81,481,900";

Page 97, line 8, by deleting the amount "90,055,400" and inserting the amount "88,570,400";

Page 97, line 11, by deleting the amount "188,532,500" and inserting the amount "187,658,700";

Page 97, line 11, by deleting the amount "199,207,400" and inserting the amount "197,722,400";

Page 97, line 15, by deleting the amount "4,109,700" and inserting in lieu thereof the amount "4,609,700";

Page 97, line 15, by deleting the amount "4,481,570,100" and inserting in lieu thereof the amount "4,484,396,500";

Page 97, line 15, by deleting the amount "4,752,777,300" and inserting in lieu thereof the amount "4,749,990,200";

Page 97, line 16, by deleting the amount "1,837,789,700" and inserting in lieu thereof the amount "1,834,997,500";

Page 97, line 16, by deleting the amount "1,915,578,600" and inserting in lieu thereof the amount "1,916,193,500";

Page 97, line 17, by deleting the amount "3,479,124,800" and inserting in lieu thereof the amount "3,478,683,800";

Page 97, line 17, by deleting the amount "3,656,819,700" and inserting in lieu thereof the amount "3,656,021,700";

Page 97, line 20, by deleting the amount "29,023,600" and inserting in lieu thereof the amount "29,523,600";

Page 97, line 20, by deleting the amount "10,772,489,900" and inserting in lieu thereof the amount "10,772,083,100";

Page 97, line 20, by deleting the amount "11,141,590,500" and inserting in lieu thereof the amount "11,138,620,300";

Page 97, line 23, by deleting the amount "4,766,200" and inserting in lieu thereof the amount "4,616,200";

Page 97, line 23, by deleting the amount "11,217,900" and inserting in lieu thereof the amount "11,067,900";

Page 97, line 24, by deleting the amount "1,900,000" and inserting in lieu thereof the amount "900,000";

Page 97, line 24, by deleting the amount "302,158,500" and inserting in lieu thereof the amount "299,900,500";

Page 97, line 24, by deleting the amount "131,149,700" and inserting in lieu thereof the amount "147,885,700";

Page 97, line 26, by deleting the amount "179,590,600" and inserting in lieu thereof the amount "214,090,600";

Page 97, line 26, by deleting the amount "118,218,500" and inserting in lieu thereof the amount "94,218,500";

Page 98, line 7, by deleting the amount "20,663,000" and inserting in lieu thereof the amount "19,663,000";

Page 98, line 7, by deleting the amount "620,366,900" and inserting in lieu thereof the amount "652,458,800";

Page 98, line 7, by deleting the amount "356,090,300" and inserting in lieu thereof the amount "348,676,300";

Page 98, line 14, by deleting the amount "4,109,700" and inserting in lieu thereof the amount "4,609,700";

Page 98, line 14, by deleting the amount "4,491,336,300" and inserting in lieu thereof the amount "4,494,012,700";

Page 98, line 14, by deleting the amount "4,768,995,200" and inserting in lieu thereof the amount "4,766,058,100";

Page 98, line 16, by deleting the amount "26,720,400" and inserting in lieu thereof the amount "25,720,400";

Page 98, line 16, by deleting the amount "2,139,948,250" and inserting in lieu thereof the amount "2,134,898,000";

Page 98, line 16, by deleting the amount "2,046,728,300" and inserting in lieu thereof the amount "2,064,079,200";

Page 98, line 17, by deleting the amount "3,563,440,900" and inserting in lieu thereof the amount "3,562,999,900";

Page 98, line 17, by deleting the amount "3,722,446,400" and inserting in lieu thereof the amount "3,721,648,400";

Page 98, line 19, by deleting the amount "339,590,600" and inserting in lieu thereof the amount "374,090,600";

Page 98, line 19, by deleting the amount "118,218,500" and inserting in lieu thereof the amount "94,218,500";

Page 98, line 25, by inserting the term "/Other" after the word "Proceeds";

Page 98, line 26, by deleting the amount "49,686,600" and inserting in lieu thereof the amount "49,186,600";

Page 98, line 26, by deleting the amount "11,397,856,800" and inserting in lieu thereof the amount "11,429,542,000";

Page 98, line 26, by deleting the amount "11,502,680,800" and inserting in lieu thereof the amount "11,492,296,600";

Page 100, line 14, after "$12,500,000", by deleting the "-";

Page 102, line 3, by deleting the amount "15,000,000" for fiscal year 1992-93 and inserting the amount "49,500,000" for fiscal year 1992-93;

Page 102, line 3, by deleting the amount "70,000,000" for fiscal year 1993-94.

Page 103, line 6, by deleting the words "three (3) percent" and inserting in lieu thereof "raising the local government share";

Page 103, line 7, by deleting the word "receipts" and inserting in lieu thereof "from 12 percent to 15 percent";

Page 103, line 7, by deleting the word "the" and inserting in lieu thereof "raising the local government share of the";

Page 103, line 8, by deleting the words "amount of";

Page 103, line 8, by deleting the words "receipts attributable to six" and inserting in lieu thereof "from 12 percent to 18 percent";

Page 103, line 9, by deleting the words "(6) percent of revenues";

Page 103, by deleting lines 16 to 24 in their entirety;

Page 105, after line 3 and before line 4, by adding the following: "g. Digital Transmission Communications Equipment - Reauthorization"

Page 113, line 2, by deleting the amount "1,500,000" and inserting in lieu thereof the amount "1,100,000";

Page 114, line 9, by deleting the word "Phase I";

Page 114, after line 9 and before line 10, by adding the following:

"Bond Funds 46,000,000*" in FY 1992-93;

Page 114, after line 10 and before line 11, by adding the following:

"*Project authorization is provided in the first year but bond sale is not allowed until after January 1, 1993, due to timing of debt service payment.";

Page 117, after line 2 and before line 3, by adding the following:

"tt. Mechanical Engineering Building-Planning and Design Funds

Restricted Funds 873,000 (in 1993-94 column)

uu. Super Computer Upgrade

Restricted Funds 7,000,000" (in 1992-93 column);

Page 117, after line 17 and before line 18, by adding the following:

"Restricted Funds 2,000,000" (in 1992-93 column);

Page 122, after line 19 and before line 20, by adding the following:

"y. Health Science Center Research Building - Planning and Design Funds

Restricted Funds 3,500,000"(in 1992-93 column);

Page 127, line 26, by deleting the amount "26,000" for fiscal year 1992-93 and inserting the amount "130,000" for fiscal year 1992-93;

Page 127, line 26, by deleting the amount "26,000" for fiscal year 1993-94;

Page 128, line 5, by deleting the amount "59,000" for fiscal year 1992-93 and inserting the amount "295,000" for fiscal year 1992-93;

Page 128, line 5, by deleting the amount "59,000" for fiscal year 1993-94;

Page 134, line 7, by deleting the amount "27,000" for fiscal year 1992-93 and inserting the amount "54,000" for fiscal year 1992-93;

Page 134, line 7, by deleting the amount "27,000" for fiscal year 1993-94;

Page 147, line 25, by deleting the word, "Up", and inserting in lieu thereof: "Upgrade";

Page 156, by deleting line 23 in its entirety;

Page 156, line 24, by deleting the amount "450,000" and inserting in lieu thereof the amount "750,000";

Page 156, by deleting line 25 in its entirety;

Page 160, line 18, by inserting "100,000" in the fiscal year 1993-94 column;

Page 163, line 16, by deleting "m" and inserting in lieu thereof "l";

Page 164, after line 8 and before line 9 by inserting the following

"Restricted Funds	475,000	475,000";

Page 165, by deleting line 18 in its entirety;

Page 168, after line 25 and before line 26, by inserting the following:

"In the event that an economic development project incurs financial assistance and expenses prior to issuance of bonds the Secretary for Economic Development, with the approval of the Secretary of Finance and Administration, may be authorized to expend up to $500,000 from an economic development contingency account for this purpose, subject to the provisions in this Act.";

Page 169, line 12, after "of", by adding the following: "the expansion of";

Page 177, line 23, by deleting the words "prior to the obligation";

Page 177, line 24, by deleting the words "of funds for expenditure";

Page 187, by deleting lines 17 to 26 in their entirety;

Page 188, by deleting lines 1 to 26 in their entirety;

Page 189, by deleting lines 1 to 12 in their entirety;

Page 189, after line 12 and before line 13 by adding the following:

"17. Totals and subtotals given within this Act and other general appropriations acts are provided as a convenience and do not constitute appropriations of funds. To the extent that a total or subtotal conflicts with the sum of the appropriation figures of which it consists, the amounts of the individual appropriations shall control. When a conflict of this nature arises, either as a result of an inadvertent error in initial entry of a total or subtotal or through an amendment to any of its component appropriations, the Director of the

Legislative Research Commission shall apprise the Reviser of Statutes in writing of the existence of and reason for the variation and of the correct amount of the total or subtotal, and, if the requested change is within the scope of this paragraph, the Reviser shall cause that corrected total or subtotal to be substituted in the Acts and journals of the General Assembly and in the Kentucky Revised Statutes.";

Page 190, line 25, by deleting the word "non-elected";

Page 192, after line 2 and before line 3, by entering the following:

"6. In order that state compensation policies, regulations, and practices may be addressed in a comprehensive manner and due to funding constraints and the salary increment policies in FB 1992-94, the provisions of KRS 18A.110 and 18A.155 are suspended to the extent of any conflict with this section. Upon the effective date of June 1, 1992, the Commissioner of Personnel shall effect no further adjustment of the pay schedule, class reevaluation and grade adjustment, or pay grade change. Any compensation increase due to promotion or promotional probation shall be limited to five percent (5%). Any employee who receives an increase in compensation due to detail to special duty shall receive upon return to regular duty only the rate of compensation received prior to special duty detail, adjusted for any standard annual salary increment which may have been awarded for state employees during the interim. The Governor may certify any essential exception to this policy based upon critical recruitment needs upon the request of the Commissioner of Personnel. The Commissioner of Personnel shall present by August 1, 1993, a comprehensive proposal for compensation equity to the Legislative Research Commission and to the Governor for consideration by the 1994 General Assembly.

7. The Department of Personnel shall establish a record of budgeted permanent full-time and equivalent positions based upon the enacted budget and any adjustment authorized by provisions of this Act. The record shall separately state filled and vacant budgeted positions. A vacated position shall be abolished within thirty (30) days after the position becomes vacant. Positions may be established based upon the authorized complement for each budget unit.";

Page 196, by deleting lines 9 to 26 in their entirety; and inserting in lieu thereof the following: "Pursuant to KRS 48.130, there is hearby established a Road Fund Budget Reduction Plan for fiscal year 1992-93 and fiscal year 1993-94. In the event of an actual or estimated deficit in Road Fund receipts in fiscal year 1992-93 or in fiscal year 1993-94 of at least two and one-half percent (2.5%) but not more than five percent (5%) less than the revenue estimates as determined under subsection (3) of KRS 48.120, the Governor shall implement sufficient reductions as may be required to protect the highest possible level of service in accordance with KRS 48.130.";

Page 197, by deleting lines 1 to 22 in their entirety;

Page 200, line 16, by deleting the words, "In granting";

Page 200, by deleting lines 17-19 in their entirety;

Page 200, line 20, by deleting the words, "and Marshall County.";

Page 200, after line 23 and before line 24 by adding the following:

"5. SECRETARY'S OFFICE

- In the event that the Secretary of Economic Development determines that a specific economic development project requires financial assistance prior to issuance of economic development bonds, the Secretary may authorize the expenditure, upon approval by the Secretary of the Finance and Administration Cabinet, of up to $500,000 from a capital construction account appropriated to the Economic Development Cabinet as an economic development contingency fund. The contingency fund account shall be continued and shall not lapse to the General Fund at the close of the fiscal year 1991-92 or fiscal year 1992-93. Any expenditures from the fund, in excess of $200,000 per project shall be reported to the Capital Projects and Bond Oversight Committee. All expenditures from the fund shall be reported in the Annual Capital Construction Report required by KRS 45.760(13). When a project is selected in accordance with KRS 152.052 to receive economic development bond funds after receiving assistance from the economic development contingency fund account, the amount expended from the contingency fund shall be included in the bond issue and that same amount shall be repaid to the contingency fund upon issuance of the bonds. Assistance provided from the economic development contingency fund account shall be restricted to actual and necessary costs incurred in the recruitment of the project as certified by the Secretary of Economic Development and shall include, but not be limited to, such items as feasibility studies, site survey and evaluation, environmental impact studies, legal services, or other similar expenses, including, but not limited to, Paducah Area Projects." and renumber accordingly;

Page 200, line 24, by deleting the word "INCENTIVE" and inserting in lieu thereof "INCENTIVES";

Page 201, line 4, after the word "match" and before the word "is", by inserting the words "from private, non-governmental sources" and by deleting the word "obtained" and inserting in lieu thereof "assured";

Page 201, line 4, by deleting the words "The Lake Reba";

Page 201, by deleting lines 5 to 7 in their entirety, and inserting in lieu thereof the following: "There is reappropriated $650,000 in fiscal year 1991-92 for the Lake Reba Recreational Area Complex Improvement Project from Project 53 bond proceeds, which has been authorized by the 1990 General Assembly for the City of Richmond Parking Garage.";

Page 201, by deleting lines 8 to 11 in their entirety;

Page 201, after line 17 and before line 18, by adding the following:

" - Extended School Services - Program Requirements: No grants to local school districts for the Extended School Services program shall be approved unless the application includes the following: a complete description of the program; the manner in which the program will operate; the projected number of students to be served and the criteria to be used in selecting students for participation; and the number of certified and non-certified staff necessary for program operations and the criteria to be used in selecting staff. Instructional supplies shall only be authorized if a need is demonstrated and the district does not have the supplies and materials available. In addition, if a local school district uses funds from the Extended School Services program to provide transportation services, students not enrolled in the Extended School Services program may use these services provided their use does not increase the cost of providing the transportation.

- Minority Teacher Recruitment and Training Program: A minority teacher recruitment and training program is established. This program is: (1) to provide scholarships to paraprofessionals who seek to enter alternate routes to teacher certification; (2) to provide scholarships for minority college students preparing to become teachers, particularly on the fields of mathematics and science; (3) to create a program of early identification of minority students with college potential in grades 7 through 12; and (4) to provide administrative support for the above program including clerical assistance, annual conferences, publications, and workshops.";

Page 202, line 8, by deleting the words "Additional funds" and inserting in lieu thereof: "General Fund moneys in the amount of $1,300,000 in fiscal year 1992-93 and $2,600,000 fiscal year 1993-94";

Page 202, line 10, after "amount.", delete the word "The";

Page 202, by deleting lines 11 to 12 in their entirety;

Page 202, between lines 20 and 21, by adding the following:

" - University of Kentucky-Private Funds Debt Service: The President shall certify to the Secretary of Finance and Administration that private non-state funds have been received and are available to make required debt service payments before bonds may be sold to finance the project authorized in Part II. Copies of the certification and the written response of the Secretary shall be transmitted to the Capital Projects and Bond Oversight Committee and the Interim Joint Committee on Appropriations and Revenue.";

Page 202, by deleting lines 21-26 in their entirety;

Page 203, by deleting line 2 in its entirety;

Page 203, line 3, by deleting "(" and inserting in lieu thereof the number "14.";

Page 203, line 5, by deleting the symbol ")";

Page 203, line 7, by deleting the words "The House";

Page 203, by deleting lines 8 through 21 in their entirety;

Page 203, line 22, by deleting the words, "the Department for Social Services; 6)", and inserting in lieu thereof: "Included are: (1) funds for non-merit positions in the Commission for Health Economics Control, three (3); in the Commission for Handicapped Children, four (4); in Administration and Program Support, twenty-one (21); in Mental Health/Mental Retardation, seven (7); in Health Services, ten (10); in Employment

Services, seven (7); in Social Insurance, eight (8); in Medicaid Services, six (6); and in Social Services, eight, (8), for a total of seventy-four (74) positions; and (2)";

Page 204, line 6, by deleting the words, "; and 7) funds for other non-merit", and inserting in lieu thereof: ".";

Page 204, by deleting lines 7 to 15 in their entirety;

Page 204, line 21, after "16.", by deleting the words "MEDICAID BENEFITS";

Page 204, by deleting lines 22 to 26 in their entirety;

Page 205, by deleting lines 1 to 4 in their entirety;

Page 205, line 5, by deleting the number "17.";

Page 205, line 21, by deleting the word "JUSTICE", and inserting in lieu thereof: "CORRECTIONS";

Page 205, line 22, by deleting the word "JUSTICE ADMINISTRATION", and inserting in lieu thereof: "CORRECTIONS MANAGEMENT";

Page 206, line 6, by deleting the words "; $186,900 in fiscal year";

Page 206, by deleting line 7 in its entirety;

Page 206, line 8, by deleting the words "detention center in Paducah";

Page 206, by deleting lines 18 to 19 in their entirety;

Page 206, by deleting lines 25 to 26 in their entirety;

Page 207, by deleting line 1 in its entirety;

Page 207, by deleting lines 12 to 26 in their entirety, and inserting in lieu thereof:

" - New Private Prison: A new male minimum security 300-bed private prison is authorized for which the Request for Proposal is to issued by June 1, 1992; vendor responses to the Request for Proposal are due by July 1, 1992; the contract is to issue by August 1, 1992; and the facility is to be operational by April 1, 1992.";

Page 208, by deleting lines 1-26 in their entirety;

Page 209, by deleting lines 1-11 in their entirety;

Page 210, by deleting lines 2 to 26 in their entirety;

Page 211, by deleting lines 1 to 6 in their entirety;

Page 211, line 23, by deleting the term "224.60-150" and inserting in lieu thereof the term "224.60-140";

Page 212, line 1, after "26.", by deleting the following: "DEPARTMENT OF HOUSING, BUILDINGS AND";

Page 212, line 2, by deleting the following: "CONSTRUCTION";

Page 212, by deleting lines 3 to 26 in their entirety;

Page 213, by deleting lines 1 to 10 in their entirety;

Page 213, line 11, delete the term "27." and renumber accordingly

Page 214, by deleting lines 16 to 26 in their entirety and renumber accordingly;

Page 215, by deleting lines 1 to 2 in their entirety;

Page 215, line 12, by deleting the words "Advertising Match Funds", and inserting in lieu thereof "International Tourism Activity";

Page 216, line 11, by deleting the word, "HIGHWAYS", and inserting in lieu thereof: "VEHICLE REGULATION";

Page 216, delete lines 12 to 26 in their entirety;

Page 217, by deleting lines 1 to 16 in their entirety and renumber accordingly;

Page 218, after line 11 and before line 12, insert the following:

"The Transportation Cabinet shall not require any local contribution from the Scott County or Georgetown governments for funding any by-pass projects. Any such agreements or arrangements which may presently exist are void and no local funds shall be assessed."; and

Page 218, by deleting lines 14 to 20 in their entirety and inserting in lieu thereof the following:

" - Regional Vocational-Technical Offices: By July 1, 1992, the Department for Adult Technical Education shall reduce the number of regional vocational-technical offices from fourteen (14) to six (6). These regional offices are to be located in Bowling Green, Ashland, Hazard, Madisonville, Lexington, and Elizabethtown.".

Representative J. Clarke moved that the House refuse to concur in Senate Amendment No. 1 to **HB 468**. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 219**, **SB 251** and **SB 70** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:24 p.m.)

Orders of the Day (Continued)

SB 51 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **SB 51** be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 23, 1992 roll call on **SB 51** - Appendix.)

SB 51 was passed and the title agreed to.

Representative Riggs moved that the vote by which **SB 51** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 3**, by Representative Wayne:

Amend printed copy **SB 3/GA** as follows:

On page 1, line 16, by deleting "***thirteen (13)***"; and

On page 1, line 16, by deleting the brackets around and strikethroughs from "fourteen (14)"; and

On page 2, line 3, by deleting "***seven (7)***" and inserting in lieu thereof "***eight (8)***"; and

On page 2, line 23, by deleting "***and***"; and

On page 2, line 25, after "***Commonwealth***" by inserting the following:

"***; and***

(h) One (1) private director representing the interests of the Kentucky construction trade unions"; and

On page 5, line 18, by deleting "***seven (7)***"; and

On page 5, line 18, by deleting the brackets around and strikethroughs from "eight (8)"; and

On page 6, lines 3-5, by deleting the sentence beginning with "For the" and ending with "succeed them.".

Floor Title Amendment to **SB 298**, by Representative Little:

Amend printed copy of **SB 298/GA** as follows:

By amending the title to read as follows: AN ACT relating to mining.

Orders of the Day (Continued)

SB 351 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved that **SB 351** be passed.

On the roll call the vote was: Yeas 80, Nays 9. (See March 23, 1992 roll call on **SB 351** - Appendix.)

SB 351 was passed and the title agreed to.

Representative Morris moved that the vote by which **SB 351** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 69 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **SJR 69** be adopted.

On the roll call the vote was: Yeas 92, Nays 0. (See March 23, 1992 roll call on **SJR 69** - Appendix.)

SJR 69 was adopted.

Representative Geveden moved that the vote by which **SJR 69** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 473, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 473**. Agreed.

Representative Burch moved that **HB 473**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 61, Nays 13. (See March 23, 1992 roll call on **HB 473** - Appendix.)

HB 473, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 473**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 147 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 147** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 23, 1992 roll call on **SB 147** - Appendix.)

SB 147 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 147** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 202**, by Representative Gregory:

Amend printed copy of **SB 202/GA** as follows:

On page 9, after line 20, by adding the following:

"SECTION 9. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

As used in Sections 9 to 21 of this Act, unless the context clearly requires otherwise:

(1) "ASTM standard" means the latest standards and specifications as set forth by the American Society for Testing and Materials in accordance with the most recent version of ASTM specifications for automotive gasoline, or ASTM specifications for diesel fuel oils;

(2) "Commissioner" means the Commissioner of Agriculture or a departmental employee designated by the Commissioner to act on his behalf for the purposes of Sections 9 to 21 of this Act;

(3) "Department" means the Kentucky Department of Agriculture;

(4) "Diesel fuel" means refined oil commonly used in internal combustion engines and defined as diesel fuel under the ASTM standard classification of diesel fuel oils;

(5) "Division" means the Division of Weights and Measures in the Kentucky Department of Agriculture;

(6) "Gasoline" means gasoline as defined in KRS 138.210(4);

(7) "Gasoline alcohol blend" means a blend consisting primarily of gasoline and at least one percent (1%) of one (1) or more alcohols;

(8) "Gasoline-oxygenate blend" means a blend consisting primarily of gasoline and at least one percent (1%) of one (1) or more oxygenates;

(9) "Oxygenate" means an oxygen-containing, ashless, organic compound, such as an alcohol or ether, which may be used as a fuel or fuel supplement;

(10) "Inspector" means a state inspector of the Division of Weights and Measures as defined in KRS 363.510;

(11) "Motor fuels" means any liquid product used for the generation of power in an internal combustion or turbine engine and shall include, but not necessarily be limited to, gasoline, diesel fuel, gasoline alcohol blend, or special fuels;

(12) "Person" means any individual, partnership, corporation, company, firm, association, or other business entity; and

(13) "Special fuels" means special fuels as defined in KRS 138.210(4), except it does not mean compressed natural gas.

SECTION 10. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 9 to 21 of this Act shall be administered by the Commissioner or his authorized agent. For the purposes of administering and giving effect to the provisions of Sections 9 to 21 of this Act, the standards set forth in the annual book of ASTM standards, supplements, and revisions shall be applied.

(2) In adminstering Sections 9 to 21 of this Act, the department shall conform to any provisions of the federal law or regulation which imposes requirements in conflict with the ASTM standard.

(3) The department may promulgate administrative regulations to implement Sections 9 to 21 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

No article or commodity shall be sold or offered for sale and use in Kentucky as motor fuel unless it conforms to the following:

(1) The fuels shall be labeled and posted in accordance with applicable federal and state laws;

(2) The motor fuels shall conform to the latest ASTM specifications for that particular type, class, and grade of motor fuels except:

(a) As provided by Section 10(2) of this Act; and

(b) For gasoline-alcohol blends, in which case the vapor pressure limit for each class shall be increased by one (1) pound per square inch, the minimum temperature for fifty percent (50%) distillation shall be one hundred fifty eight (158) degrees Fahrenheit, and V/L (vapor to liquid ratio) is waived;

(3) The motor fuel compliance with ASTM standards or specifications shall be determined in accordance with the test methods prescribed in the latest ASTM publications;

(4) The tests required to assure compliance with this section shall be made by refiners, manufacturers, or blenders of the motor fuels. All shipments of such motor fuel shall state on either the bill of lading or invoice the destination of the shipment and that the shipment meets the standards and specifications required in this section. The Division of Weights and Measures may obtain a sample of any shipment for testing in accordance with Section 14 of this Act; and

(5) Unfinished oils and motor fuel blending components shall be exempt from this section until they are offered for sale as motor fuel by the refiner or manufacturer.

SECTION 12. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells or offers for sale motor fuel in Kentucky shall register one (1) time with the division on forms provided by the division and shall disclose the location within the Commonwealth from which motor fuel is offered for sale. Any person who starts or discontinues the sale or distribution of motor fuel in Kentucky shall notify the division of the date the sale or distribution within the Commonwealth will begin or end and the location affected.

(2) All motor fuels to be sold or offered for sale at a location shall be registered by the name, brand, or trademark under which it will be conveyed. Registration shall include:

(a) The name and address of the person registering the motor fuel;

(b) The antiknock index or octane number, as appropriate, at which the fuel is to be sold; and

(c) Certification, declaration, or affidavit that each individual grade or type of motor fuel conforms to Section 11 of this Act.

(3) Each person registered to sell motor fuels shall retain the bills of lading or invoices at the location to which the motor fuel is shipped. In the case of a person registered to sell motor fuels at more than one (1) location, the bills of lading or invoices may be retained at a central location in Kentucky, provided bills of lading or invoices are made available to the inspector upon request. A bill of lading or invoice shall be retained for ninety (90) days from the date of delivery.

SECTION 13. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) The Commissioner shall implement and administer an inspection and testing program to enforce compliance with Section 11 of this Act.

(2) When in the discretion of the director of the division, promotion or protection of the public health, safety, or welfare necessitates, inspection and testing may be performed under the provisions of Section 14 of this Act with regard to any person or business location which sells or offers for sale motor fuel in Kentucky.

(3) Upon receiving a consumer complaint alleging a violation of Section 11 of this Act, which in the discretion of the director of the division indicates that the public health, safety, or welfare has been threatened,

the director may perform inspection and testing as may be necessary to determine whether the consumer complaint has an actual basis in fact.

(4) The test results and motor fuel analysis performed under the provisions of Sections 14 and 15 of this Act shall constitute open records and shall be available for public inspection at the division offices during regular business hours.

SECTION 14. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

Upon request of an inspector, a person who sells or offers for sale motor fuel for consumption in Kentucky shall immediately provide the department, in containers provided free of cost by the department, an amount of motor fuel not to exceed one (1) gallon. Samples shall be pumped, pulled, drawn, or otherwise provided in the presence of the field inspector. The department shall test the samples for compliance with the requirements of Section 11 of this Act.

SECTION 15. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the division director finds motor fuels being sold or offered for sale by any person or at any location which does not meet the requirements of Sections 11, 12, or 14 of this Act, the director may issue a stop sale order and affix the stop sale order to the motor fuel dispenser containing substandard motor fuel.

(2) A stop sale notice may be issued to the seller or distributor of motor fuels failing to meet the requirements of Sections 11, 12, or 14 of this Act. The supplier shall be notified accordingly and a release shall be awarded by the division immediately after the supplier or seller demonstrates compliance. A report of the disposition shall be submitted to the division in writing within five (5) business days and contain an explanation for the failure to meet the requirements of Sections 11, 12, or 14 of this Act and corrective action taken. The stop sale order shall apply only to the location and particular type of motor fuel where sample analysis indicates a violation. Upon issuing a stop sale order, the director of the division may require meter readings and physical inventory be taken and included in the report of disposition.

(3) A retest or a new sample of substandard fuel analyzed under the provisions of Section 14 of this Act may be requested and shall be conducted by the department as soon as possible in accordance with ASTM standards for a retest.

SECTION 16. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

If suspended matter is found in the motor fuel, the filtration device shall be examined and if found defective shall be replaced before the dispenser may be used again.

SECTION 17. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) Any person who sells, offers for sale, conveys, or distributes motor fuel for consumption in Kentucky, or an agent or employee of the person, refusing during regular working hours to promptly provide upon request a sample for inspection and testing as required by Section 14 of this Act, shall be in violation and shall be subject to the penalty set forth in Section 21 of this Act.

(2) Any person who sells, offers for sale, conveys, or distributes motor fuel for consumption in Kentucky, or an agent or employee of that person, and interferes or attempts to interfere with the reasonable efforts of an inspector or department employee to perform any duty or responsibility assigned pursuant to Section 14 of this Act, shall be in violation and shall be subject to the penalties in Section 21 of this Act.

(3) A person who sells, offers for sale, conveys, or distributes motor fuel in Kentucky and fails to register with the department as required by Section 12 of this Act shall be subject to the penalties in Section 21 of this Act.

SECTION 18. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) Each official and employee within the department who is directly or indirectly involved in the administration or enforcement of Sections 9 to 21 of this Act and who has a direct or indirect interest in any firm, business, or corporation which sells or offers for sale motor fuels for consumption in Kentucky, shall annually file a written statement summarizing his involvement in the administration or enforcement of Sections 9 to 21 of this Act as well as his interest in the business, firm, or corporation. The statement shall constitute an open record, shall be kept on file in the department offices, and shall be available for public inspection during business hours.

(2) No official or employee within the division and no official or employee within the department carrying out any functions which have been assigned under the authority of Sections 9 to 21 of this Act shall take away or appropriate for his own use any sample collected by or submitted to the department for testing. The department shall establish policies and procedures governing the use, disposal, or sale of any sample remaining unused after testing is completed.

SECTION 19. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the motor fuel compliance fund. The fund shall be maintained as a separate and distinct account. All fees collected pursuant to Section 20 of this Act shall be deposited in the fund.

(2) The fund shall be administered by the department and shall be used only for the purpose of implementing an inspection and testing program to assure compliance with Sections 9 to 21 of this Act.

SECTION 20. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

(1) There is established a motor fuel compliance fee to be paid by dealers, as defined in KRS 138.210(2), on each gallon of gasoline and special fuels received in the state. The fee shall be assessed at a rate of two and one half cents (2-1/2) for each one hundred (100) gallons received. All money collected from the assessment of this fee shall be deposited to the motor fuel compliance fund.

(2) All categories of gasoline and special fuels specified in KRS 138.240(2), gasoline and special fuels sold for agricultural purposes, and special fuels sold exclusively to heat a personal residence are exempt from the fee. If a dealer has on file, pursuant to KRS Chapter 138, a statement supporting a claimed exemption, an additional statement shall not be required for claiming exemption from the fee.

(3) The fee shall be reported and paid to the Revenue Cabinet at the same time and in the same manner as is required for the reporting and payment of the gasoline and special fuels taxes as provided by law.

(4) All provisions of law related to the Revenue Cabinet's administration and enforcement of the gasoline and special fuels tax and all other powers generally conveyed to the Revenue Cabinet by the Kentucky Revised Statutes for the assessment and collection of taxes shall apply with regard to the fee levied by this section.

SECTION 21. A NEW SECTION OF KRS CHAPTER 363 IS CREATED TO READ AS FOLLOWS:

Any person who violates any provision of Sections 9 to 21 of this Act or any administrative regulation promulgated pursuant to Sections 9 to 21 of this Act shall be guilty of a misdemeanor and upon conviction

shall be punished by a fine of not more than five thousand dollars ($5,000), or confinement for not more than ninety (90) days, or both."

Orders of the Day (Continued)

SB 148 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 148** be passed.

On the roll call the vote was: Yeas 87, Nays 0. (See March 23, 1992 roll call on **SB 148** - Appendix.)

SB 148 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 148** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 149 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 149** be passed.

On the roll call the vote was: Yeas 87, Nays 3. (See March 23, 1992 roll call on **SB 149** - Appendix.)

SB 149 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 149** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 150 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **SB 150** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 23, 1992 roll call on **SB 150** - Appendix.)

SB 150 was passed and the title agreed to.

HB 19, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 3 to **HB 19** is as follows:

Amend printed copy of **HB 19/GA** as follows:

Page 1, line 14, by deleting "***The lowest and***";

and on page 1, line 15, by deleting "***best bid shall be selected.***".

Representative Riggs moved that the House concur in Senate Amendment No. 3 to **HB 19**. Agreed.

Representative Riggs moved that **HB 19**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 83, Nays 6. (See March 23, 1992 roll call on **HB 19** - Appendix.)

HB 19, as amended by the Senate, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 19**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 88, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 88** is as follows:

HB 88, AN ACT relating to metropolitan sewer districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 76.180 is amended to read as follows:

(1) The district shall have power to make and promulgate all rules and regulations proper or necessary to regulate the use, operation, and maintenance of property and facilities under its control, and to carry into effect the powers granted the district by KRS 76.010 to 76.295. The jurisdiction of the district shall extend outside of the district area and outside of construction subdistricts for regulation of any sewers, drains, or watercourses, which by natural flow, or otherwise, empty into or flow through any part of the district area, a construction subdistrict, or the district facilities, or are used by the district or flow through or are constructed in the county in which ***the*** [~~such~~] district exists.

(2) The board shall develop a procedure and designate an independent hearing officer for the hearing, review, and resolution of citizens' complaints and grievances that concern:

(a) Prioritization of sewer and drainage service requests conducted by the district's maintenance or operations departments;

(b) Billing grievances involving the accuracy of individual or residential bimonthly sewer and drainage bills, sewer assessments, and the district's billing policies and procedures;

(c) Reimbursement for plumber's bills;

(d) Inadequate property restoration by district's crews or contractors; and

(e) Rude or inappropriate behavior by district employees.

(3) Any person or corporation, public or private, affected by the exercise of powers granted the district may appeal a decision of the district to the hearing officer provided for in subsection (2) of this section. Appeals shall be limited to the complaints and grievances outlined in subsection (2) of this section. The appeals shall be in writing and shall state:

(a) The circumstances of the district's action;

(b) The reason the appellant is aggrieved;

(c) Any citations of regulations or statutes the appellant believes to be pertinent to the appeal; and

(d) Recommendations of convenient times to hold a hearing on the matter.

(4) The hearing officer shall conduct a hearing within ninety (90) days of receipt of an appeal, and shall inform each appellant in writing of the date, time, and location his appeal will be heard. The site for each hearing shall be chosen by the hearing officer to meet the needs of the aggrieved party or parties. Citizens shall be given the greatest possible latitude regarding the introduction of evidence at all hearings.

(5) The hearing officer shall make a decision on each appeal that is consistent with applicable law and the policy of the district. The decision shall be forwarded to the board in the form of a recommendation within thirty (30) days of the hearing. The board shall review the findings of the hearing officer and accept or reject the recommendation within thirty (30) days of receiving it.

(6) Copies of the board's decision and the hearing officer's recommendation shall be sent to the appellant and the members of the General Assembly who represent any area within the district's jurisdiction within fifteen (15) days of the board's decision.

Section 2. Within one hundred and twenty (120) days of the effective date of this Act, the district shall make available to the public a written explanation of the process and procedures to be followed for the review and resolution of grievances.

Representative Yates moved that the House concur in the Senate Committee Substitute to **HB 88**. Agreed.

Representative Yates moved that **HB 88**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 23, 1992 roll call on **HB 88** - Appendix.)

HB 88, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 88**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 267**, by Representative Morris:

Amend printed copy of **SB 267/GA** as follows:

On page 188, after line 7, by adding the following:

"Section 148. KRS 82.025 is amended to read as follows:

(1) There shall be created a Kentucky Urban Affairs Council that shall consist of the mayors of all cities of the first and second classes, ***cities with a population of at least twenty-nine thousand (29,000),*** and urban-county governments and the designated chief executives of charter county governments that prior to the merger of city and county governments contained a city of the second class. The mayor of Louisville shall serve as the first chairman and subsequent chairmen shall be elected annually by the council members. The council shall study all matters pertaining to urban problems, including but not limited to human resources, environmental conditions, property values, law and order, and race relations. The council shall meet at least

four (4) times per year to formulate a plan to improve urban conditions for presentation to the Governor annually and the General Assembly.

(2) The council shall be attached to the Department of Local Government for administrative purposes. The department shall be the administrative agent for the council providing staff and other services, as needed, by the council. The department shall provide adequate funding for staff services and the reasonable and necessary expenses of the council and its members for the effective performance of the council's work.".

Floor Amendment No. 1 to **HB 785**, by Representative B. Smith:

Amend printed copy of **HB 785** as follows:

On page 2, line 22, by deleting "***(1)***"; and

On page 2, line 25, by deleting "***The employees***"; and

On page 2, line 26, by delete in its entirety; and

On page 3, line 1 through 6, delete in their entirety; and

On page 3, line 7, by deleting, "***plan at their employer institution. Eligible***"; and

On page 3, line 7 add "***E***mployees"; and

On page 3, line 14, add "." following "institution", and

On page 3, line 14, by deleting "***, who shall forward a***"; and

On page 3, lines 15 and 16, delete in their entirety; and

On page 3, line 17, by deleting the words "***shall be effective on the date they are filed.***" and

On page 3, line 26, delete in its entirety; and

On page 4, lines 1 through 9 delete in their entirety.

Orders of the Day (Continued)

HB 561, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 561** is as follows:

Amend printed copy of **HB 561** as follows:

On page 1, line 21, by deleting "Division of Conservation Education" and inserting in lieu thereof "Division of Information and Education".

Representative Bruce moved that the House concur in Senate Amendment No. 1 to **HB 561**. Agreed.

Representative Bruce moved that **HB 561**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See March 23, 1992 roll call on **HB 561** - Appendix.)

HB 561, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 561**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 330, with Senate Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 330** is as follows:

Amend printed copy of **HB 330/GA** as follows:

On page 11, line 7, before the period following "***postdoctoral***" by inserting the following: "***, however, this requirement shall not apply to those applicants who are currently enrolled in a program of study which will result in the applicant obtaining a doctoral degree in psychology from a regionally accredited educational institution. No exemption shall be made for any applicant who enrolls in such doctoral program after the effective date of this Act***".

The Senate Amendment No. 2 to **HB 330** is as follows:

Amend printed copy of **HB 330/GA** as follows:

On page 8, line 2, by inserting after "***education***" the following: "***not to exceed forty-five (45) contact hours per three (3) year renewal period***".

Representative Lear moved that the House concur in Senate Amendment No. 1 to **HB 330**. Agreed.

Representative Lear moved that the House concur in Senate Amendment No. 2 to **HB 330**. Agreed.

Representative Lear moved that **HB 330**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 23, 1992 roll call on **HB 330** - Appendix.)

HB 330, as amended by the Senate, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 330**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 89, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 89** is as follows:

Amend printed copy of **HB 89/GA** as follows:

On page 17, line 9, after "***interest***" and before "***and***" by inserting "***on bonds***"; and

On page 17, line 15, by deleting "***cabinet***" and inserting in lieu thereof "***board***" and by deleting "***its***" and by inserting in lieu thereof "***the cabinet's***"; and

On page 21, line 1, by deleting "***board***" and inserting in lieu thereof "***cabinet***"; and

On page 21, line 7, by deleting "***board***" and by inserting in lieu thereof "***cabinet***"; and

On page 23, line 21, by deleting "***board***" and by inserting in lieu thereof "***cabinet***"; and

On page 24, line 7, by deleting "***board***" and by inserting in lieu thereof "***cabinet***;

On page 63, lines 21 and 22, by deleting "***authority***" and by removing the brackets and strikethroughs around "secretary of the Cabinet for Economic Development"; and

On page 114, line 17, by deleting "***priority***" and by inserting in lieu thereof "***funding consideration***"; and

On page 157, following line 14, by adding the following:

"Section 79. The provisions of any Act of the 1992 Regular Session of the Kentucky General Assembly to the contrary notwithstanding, any program, function, or responsibility assigned, directly or indirectly, by any Act of the 1992 Regular Session of the Kentucky General Assembly, to the Kentucky Development Finance Authority or the Kentucky Rural Economic Development Authority, shall be transferred, upon the effective date of this Act, to the Kentucky Economic Development Finance Authority as set forth in Section 17 of this Act. The provisions of KRS 446.250 to the contrary notwithstanding, in the event of a conflict between a section of this Act and a section in any other Act by the 1992 Regular Session of the Kentucky General Assembly, the provisions of this Act shall prevail."

Representative Lear moved that the House concur in Senate Amendment No. 1 to **HB 89**. Agreed.

Representative Lear moved that **HB 89**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 65, Nays 27. (See March 23, 1992 roll call on **HB 89** - Appendix.)

HB 89, as amended by the Senate, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 89**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 866, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **HB 866**. Agreed.

Representative Johnson moved that **HB 866**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 8. (See March 23, 1992 roll call on **HB 866** - Appendix.)

HB 866, as amended, was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 866**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **SB 192**, by Representative Morris:

Amend printed copy of **SB 192/GA** as follows:

by amending the title to read as follows:

"An ACT relating to local government officials.".

Floor Amendment No. 1 to **SB 192**, by Representative Morris:

Amend printed copy of **SB 192/GA** as follows:

On page 4, after line 5, by adding the following:

"Section 7. KRS 82.025 is amended to read as follows:

(1) There shall be created a Kentucky Urban Affairs Council that shall consist of the mayors of all cities of the first and second classes***, cities with a population of at least twenty-nine thousand (29,000),*** and urban-county governments and the designated chief executives of charter county governments that prior to the merger of city and county governments contained a city of the second class. The mayor of Louisville shall serve as the first chairman and subsequent chairmen shall be elected annually by the council members. The council shall study all matters pertaining to urban problems, including but not limited to human resources, environmental conditions, property values, law and order, and race relations. The council shall meet at least four (4) times per year to formulate a plan to improve urban conditions for presentation to the Governor annually and the General Assembly.

(2) The council shall be attached to the Department of Local Government for administrative purposes. The department shall be the administrative agent for the council providing staff and other services, as needed, by the council. The department shall provide adequate funding for staff services and the reasonable and necessary expenses of the council and its members for the effective performance of the council's work.".

Floor Amendment No. 1 to **SB 86**, by Representative Kerr:

Amend printed copy of **SB 86/GA** as follows:

On page 4, lines 10 to 12, after "***schools.***" delete all language.

Orders of the Day (Continued)

HB 443, with Floor Amendments and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Floor Amendment No. 2 to **HB 443**. Agreed.

Representative Barrows moved that **HB 443**, as amended, be passed.

On the roll call the vote was: Yeas 84, Nays 6. (See March 23, 1992 roll call on **HB 443** - Appendix.)

HB 443, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 443**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 28, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of the Committee Substitute to **SB 28**. Agreed.

Representative Arnold moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 28**. Agreed.

Representative Arnold moved that **SB 28**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 42, Nays 45. (See March 23, 1992 roll call on **SB 28** - Appendix.)

SB 28, by way of Committee Substitute as amended, was defeated.

Representative Zimmerman moved that the vote by which **SB 28**, by way of Committee Substitute as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

SB 220, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Sheehan moved the adoption of Floor Amendment No. 1 to **SB 220**. Agreed.

Representative Sheehan moved that **SB 220**, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 17. (See March 23, 1992 roll call on **SB 220** - Appendix.)

SB 220, as amended, was passed and the title agreed to.

Representative Sheehan moved that the vote by which **SB 220**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 210, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of the Committee Substitute to **SB 210**. Agreed.

Representative Gray moved that **SB 210**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 23, 1992 roll call on **SB 210** - Appendix.)

SB 210, by way of Committee Substitute, was passed and the title agreed to.

Representative Gray moved that the vote by which **SB 210**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 130**, by Representative Morris:

Amend printed copy of **SB 130/GA** as follows:

On page 13, after line 6, by inserting:

Section 2. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, ***or not-for-profit corporation, qualified under Section 503(c) of the Internal Revenue Code, incorporated solely for the purpose of supporting the State Board of Elections responsibility for voter registration, education, and participation*** and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(9) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(10) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(11) The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Congressional districts, members representing state government from each of the seven Congressional districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

Section 3. KRS 18A.228 is amended to read as follows:

For purposes of KRS. 18A.228 to 18A.2286, the term "state employee" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government ***or a not-for-profit corporation, qualified under Section 503(c) of the Internal Revenue Code, incorporated for the sole purpose of supporting the State Board of Elections' responsibility for carrying out voter registration, education, and participation***, and who is a contributing member of any of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the State Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board-authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

Floor Amendment No. 1 to the Committee Substitute to **SB 291**, by Representative B. Smith:

Amend printed copy of **SB 291/HCS** as follows:

On page 1, line 16, after "***Commonwealth,***" by inserting "***or***"; and

On page 1, line 17, by inserting "." after "***repair***" and by deleting "***, or he was unable to pay***"; and

On page 1, by deleting lines 18 and 19 in their entirety.

Floor Amendment No. 2 to the Committee Substitute to **SB 291**, by Representative B. Smith:

Amend printed copy of **SB 291/HCS** as follows:

On page 2, after line 5, by inserting the following:

"SECTION 2. A NEW SECTION OF SUBTITLE 39 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

If a named insured or resident relative household member is injured while operating or occupying a motor vehicle owned by the person, the only uninsured motorist coverage, underinsured motorist coverage, or added personal injury protection coverage available to the person shall be the coverage provided by the policy describing the specific motor vehicle involved in the accident, or in the case of a policy describing more than one (1) motor vehicle, the coverage designated as applicable to that motor vehicle. If a named insured or resident relative household member is injured while occupying a motor vehicle not owned by the person, the insured may select one (1) policy or coverage to apply as excess over the policy or coverage on the vehicle involved in the accident.".

Floor Amendment No. 3 to the Committee Substitute to **SB 291**, by Representative Farrow:

Amend printed copy of **SB 291/HCS** as follows:

On page 2, line 3, by deleting "***and***"; and

On page 2, line 5, by deleting "." and inserting in lieu thereof "***; and***"; and

On page 2, after line 5, by adding

"***(5) This section shall not be construed to permit the owner of the motor vehicle or any other person to operate or to permit the operation of the motor vehicle in this Commonwealth until the security has again been provided pursuant to Subtitle 39 of KRS Chapter 304.***".

Orders of the Day (Continued)

SB 216 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **SB 216** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 23, 1992 roll call on **SB 216** - Appendix.)

SB 216 was passed and the title agreed to.

Representative Ark moved that the vote by which **SB 216** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 206 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 206** be passed.

On the roll call the vote was: Yeas 79, Nays 9. (See March 23, 1992 roll call on **SB 206** - Appendix.)

SB 206 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 206** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 212 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **SB 212** be passed.

On the roll call the vote was: Yeas 87, Nays 1. (See March 23, 1992 roll call on **SB 212** - Appendix.)

SB 212 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 212** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 213 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **SB 213** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 23, 1992 roll call on **SB 213** - Appendix.)

SB 213 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 213** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 214 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **SB 214** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 23, 1992 roll call on **SB 214** - Appendix.)

SB 214 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **SB 214** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 116**, by Representative Lewis:

Amend printed copy of **SB 116/GA** as follows:

On page 2, below line 16 to add the following:

"Section 3. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action, and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food, and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants, or elsewhere, admission to exhibitions, use of vehicles or other movable property***, and obtaining the rental of a residential or commercial leasehold interest, before or during the term thereof***.

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not ***the*** [~~such~~] sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report, or form issued or prescribed by the Revenue Cabinet and required to be filed with the Revenue Cabinet as prescribed by law.

Section 4. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect his judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether ***the*** [~~such~~] impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. An issuer makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to an issuer that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the holder of five dollars ($5.00), if ***the*** [~~said~~] instrument is paid.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service***, rent,*** or the amount of the check or sight order referred to in subsection (5) of this section is one hundred dollars ($100) or more, in which case it is a Class D felony."

Floor Amendment No. 1 to **SB 160**, by Representative Lewis:

Amend printed copy of **SB 160/GA** as follows:

On page 3, below line 3 to add the following:

"Section 2. KRS 514.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deprive" means:

(a) To withhold property of another permanently or for so extended a period as to appropriate a major portion of its economic value or with intent to restore only upon payment of reward or other compensation; or

(b) To dispose of the property so as to make it unlikely that the owner will recover it.

(2) "Financial institution" means a bank, insurance company, credit union, building and loan association, savings and loan association, investment trust, or other organization held out to the public as a place of deposit of funds or medium of savings or collective investment.

(3) "Movable property" means property the location of which can be changed, including things growing on, affixed to, or found in land, and documents although the rights represented thereby have no physical location. "Immovable property" is all other property.

(4) "Obtain" means:

(a) In relation to property, to bring about a transfer or purported transfer from another person of a legal interest in the property, whether to the obtainer or another; or

(b) In relation to labor or service, to secure performance thereof.

(5) "Propelled vehicle" means any vehicle, including but not limited to motor vehicles, aircraft, boats, or construction machinery, which is propelled otherwise than by muscle power or which is readily capable of being towed otherwise than by muscle power.

(6) "Property" means anything of value, including real estate, tangible and intangible personal property, contract rights, documents, choses-in-action, and other interests in or claims to wealth, admission or transportation tickets, captured or domestic animals, food, and drink.

(7) "Property of another" includes property in which any person other than the actor has an interest which the actor is not privileged to infringe, regardless of the fact that the actor also has an interest in the property and regardless of the fact that the other person might be precluded from civil recovery because the property was used in an unlawful transaction or was subject to forfeiture as contraband. Property in possession of the actor shall not be deemed property of another who has only a security interest therein, even if legal title is in the creditor pursuant to a conditional sales contract or other security arrangement.

(8) "Receiving" means acquiring possession, control or title or lending on the security of the property.

(9) "Services" includes labor, professional service, transportation, telephone, electricity, gas, water, or other public service, accommodation in hotels, restaurants, or elsewhere, admission to exhibitions, use of vehicles, or other movable property ***obtaining the rental of a residential or commercial leasehold interest, before or during the term thereof.***

(10) "Tax liability" for purposes of this chapter means the amount of money by which a person understates the total amount of taxes due or collected and not remitted to the Commonwealth, or the amount he fails to pay to the state, or both. Any person whose income is subject to the withholding of income tax and from whose income taxes are withheld shall be considered, for purposes of this chapter, to have paid to the Commonwealth the sum of money withheld, whether or not ***the*** [~~such~~] sum withheld is paid to the Commonwealth.

(11) "Tax return" means any return, declaration, report, or form issued or prescribed by the Revenue Cabinet and required to be filed with the Revenue Cabinet as prescribed by law.

Section 3. KRS 514.040 is amended to read as follows:

(1) A person is guilty of theft by deception when he obtains property or services of another by deception with intent to deprive him thereof. A person deceives when he intentionally:

(a) Creates or reinforces a false impression, including false impressions as to law, value, intention, or other state of mind;

(b) Prevents another from acquiring information which would affect his judgment of a transaction;

(c) Fails to correct a false impression which the deceiver previously created or reinforced or which the deceiver knows to be influencing another to whom he stands in a fiduciary or confidential relationship;

(d) Fails to disclose a known lien, adverse claim, or other legal impediment to the enjoyment of property which he transfers or encumbers in consideration for the property obtained, whether ***the*** [~~such~~] impediment is or is not valid or is or is not a matter of official record; or

(e) Issues or passes a check or similar sight order for the payment of money, knowing that it will not be honored by the drawee.

(2) The term "deceive" does not, however, include falsity as to matters having no pecuniary significance or puffing by statements unlikely to deceive ordinary persons in the group addressed.

(3) Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that he did not subsequently perform the promise.

(4) For purposes of subsection (1) of this section, an issuer of a check or similar sight order for the payment of money is presumed to know that the check or order, other than a postdated check or order, would not be paid, if:

(a) The issuer had no account with the drawee at the time the check or order was issued;

(b) Payment was refused by the drawee for lack of funds, upon presentation within thirty (30) days after issue, and the issuer failed to make good within ten (10) days after receiving notice of that refusal. An issuer makes good on a check or similar sight order for the payment of money by paying to the holder the face amount of the instrument, together with any fee to be imposed pursuant to subsection (4)(c) of this section; or

(c) If a county attorney issues notice to an issuer that a drawee has refused to honor an instrument due to a lack of funds as described in subsection (4)(b) of this section, the county attorney may charge a fee to the holder of five dollars ($5.00), if ***the*** [~~said~~] instrument is paid.

(5) A person is guilty of theft by deception when he issues a check or similar sight order in payment of all or any part of any tax payable to the Commonwealth knowing that it will not be honored by the drawee.

(6) Theft by deception is a Class A misdemeanor unless the value of the property, service, ***rent,*** or the amount of the check or sight order referred to in subsection (5) of this section is one hundred dollars ($100) or more, in which case it is a Class D felony."

Floor Amendment No. 3 to the Committee Substitute to **SB 335**, by Representative Riner:

Amend printed copy of **SB 335/HCS** as follows:

On page 5, after line 3, by adding the following section:

"SECTION 3. AN NEW SECTION OF KRS CHAPTER 278 IS CREATED TO READ AS FOLLOWS:

Upon a finding that it is in the public interest of the Commonwealth, the commission may authorize rate-making allowances to encourage electric and gas utility investment in energy conservation, including investments targeted to assist low-income customers in reducing their energy usage."

Orders of the Day (Continued)

SB 75 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **SB 75** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 23, 1992 roll call on **SB 75** - Appendix.)

SB 75 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 75** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 78, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Amendment No. 1 to **SB 78**.

On the roll call the vote was yeas 38—Ballard, Bentley, Blandford, Bowling, Brown, Bruce, Burch, Callahan, Casebier, Collins, Farley, Ford, Geveden, Gray, J. Harper, Johnson, Jones, Lewis, Lile, Mack, Maggard, Mason, McElroy, Moberly, Mullinix, Nelson, Noe, Nunn, Rapier, Ravenscraft, Ridley, Riggs, Scorsone, Sheehan, B. Smith, Ward, Wayne, Worthington. Nays 41—Ackerson, Allen, Altman, Ark, Bronger, Bryant, Castleman, L. Clark, P. Clark, Crupper, Curd, Deskins, Donnermeyer, Farrow, Freibert, Gedling, Gee, Gregory Heleringer, Hourigan, Jensen, Kerr, Little, Lyne, Napier, Noland, Northup, Overstreet, Reinhardt, Riner, Sanders, T. Smith, Stokes, Strong, Stumbo, Todd, Turner, Walker, Williams, Yates, Zimmerman.

Committee Amendment No. 1 to **SB 78** was rejected.

Representative Noe moved that **SB 78** be passed.

Representative Bowling moved that the vote by which Committee Amendment No. 1 to **SB 78** was defeated be reconsidered.

On the roll call the vote was yeas 54—Adkins, Ark, Arnold, Barrows, Bentley, Blandford, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, Coleman, Collins, Curd, Cyrus, Deskins, Farley, Geveden, Gregory, Hourigan, Jones, Kerr, Lear, Lewis, Lile, Little, Long, Lyne, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Nelson, Noe, Nunn, Rapier, Ravenscraft, Richards, Riggs, Scorsone, Sheehan, B. Smith, Stumbo, Toby, Todd, Ward, Wayne. Nays 22—Ackerson, Allen, Altman, L. Clark, Donnermeyer, Ford, Freibert, Gee, Gray, K. Harper, Heleringer, Noland, Northup, Reinhardt, Sanders, Stokes, Strong, Turner, Walker, Williams, Yates, Zimmerman.

The motion to reconsider the vote by which Committee Amendment No. 1 was defeated was adopted.

Representative Bowling moved the adoption of Committee Amendment No. 1 to **SB 78**.

On the roll call the vote was yeas 57—Adkins, Ark, Ballard, Bentley, Bowling, Bronger, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, Collins, Crupper, Curd, Donnermeyer, Farley, Ford, Geveden, K. Harper, Hourigan, Johnson, Jones, Kerr, Lear, Lewis, Lile, Little, Long, Lyne, Mack, Maggard, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Nunn, Palumbo, Rapier, Ravenscraft, Richards, Richardson, Riggs, Scorsone, Sheehan, B. Smith, Stumbo, Toby, Ward, Wayne, Worthington. Nays 24—Ackerson, Allen, Altman, L. Clark, P. Clark, Farrow, Freibert, Gee Gray, Hancock, Heleringer, Jensen, Noland, Northup, Reinhardt, Sanders, Stokes, Strong, Todd, Turner, Walker, Williams, Yates, Zimmerman.

Committee Amendment No. 1 to **SB 78** was adopted.

Representative Noe moved that **SB 78**, as amended, be passed.

On the roll call the vote was: Yeas 45, Nays 46. (See March 23, 1992 roll call on **SB 78** - Appendix.)

SB 78, as amended, was defeated.

Representative Stumbo moved that the vote by which **SB 78**, as amended, was defeated be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 153, HB 299, HB 323, HB 351, HB 374, HB 386, HB 436, HB 467, HB 541, HB 556, HB 617, HB 666, HB 683, HB 686, HB 703, HCR 78** and **HJR 94** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:24 p.m.)

HB 153, HB 299, HB 323, HB 351, HB 374, HB 386, HB 436, HB 467, HB 541, HB 556, HB 617, HB 666, HB 683, HB 686, HB 703, HCR 78 and **HJR 94** were delivered to the Senate and signed by the President. Delivered to the Governor on March 23, 1992 at 3:54 p.m.

Orders of the Day (Continued)

SB 122 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **SB 122** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 23, 1992 roll call on **SB 122** - Appendix.)

SB 122 was passed and the title agreed to.

Representative Ark moved that the vote by which **SB 122** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications (Continued)

Representative Stumbo moved that the three day posting requirement on **SB 417, SB 342, SB 385** and **SB 60** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions

HR 246, by Representative Cyrus: A RESOLUTION lauding the memory of Detective Howard L. Bellamy.

HR 247, by Representatives Bowling and LeMaster: A RESOLUTION adjourning in loving memory and honor of Carolyn Boatman Brooks.

HR 248, by Representative Freibert: A RESOLUTION urging local observance of National Youth Service Day.

HR 249, by Representative Rapier: A RESOLUTION honoring and welcoming the Nelson County Baptist Christian School volleyball and basketball teams.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bill has been posted for Committee consideration:

State Government: **SB 60**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Health and Welfare: **SB 129**

Report of Committees (Continued)

The Committee on Elections and Constitutional Amendments reported **SB 186**, with Committee Substitute attached thereto, and **SB 221**, with Committee Substitute and Committee Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 186, AN ACT relating to elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.065 is amended to read as follows:

Each application for registration, change of affiliation, transfer of registration or ***absentee*** [~~special~~] ballot, as ***absentee*** [~~special~~] ballots are provided for by KRS 117.075, shall be verified by a written declaration by the applicant that it is made under the penalties of perjury.

Section 2. KRS 117.0851 is amended to read as follows:

Absentee [~~Special~~] ballots cast, as provided by KRS 117.075, 117.077, and 117.085, shall all be tabulated in the same manner, as shall be provided by this chapter.

Section 3. KRS 117.145 is amended to read as follows:

(1) At least fifteen (15) days before any special election, and at least fifty (50) days before any primary or regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of ***a*** [~~such~~] size ***to*** [~~as will~~] fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of paper absentee ballots. The absentee ballot shall be used for voting by absent voters; by precinct officers who have been assigned to a precinct other than their own; by members of a county board of elections; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all absentee ballots used for any of the purposes listed herein.

(3) ***No later than the Friday preceding*** [~~At least three (3) days before~~] a special or regular election, the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary of the Finance and Administration Cabinet.

Section 4. KRS 117.165 is amended to read as follows:

(1) Upon completing the preparation of the machines in accordance with the provisions of KRS 117.155, and not later than ***the Thursday preceding*** [~~three (3) days before~~] the day of the election, the county clerk shall notify the members of the county board of elections that the machines are ready for use. The board shall thereupon convene at the office of the county clerk, not later than ***the Friday preceding*** [~~two (2) days before~~] the day of the election, and examine the machines to determine whether the requirements of KRS 117.155 have been met. The county board of elections shall publish notice, in accordance with KRS 424.130(1)(d), at least twenty-four (24) hours in advance of the time when the machines are to be examined by the board. If found in proper order, the members of the county board of elections shall endorse their approval in the book in which the county clerk has entered the numbers of the machines opposite the numbers of the precincts. The clerk shall then deliver all of the keys to the machines to the county board of elections who shall give a receipt for the keys which shall contain identification of ***the*** [~~such~~] keys. Not later than one (1) hour before the time set for the opening of the polls, the board shall deliver all election supplies including the precinct list, tabulation sheets***,*** and the key to the device covering the registering counters and [~~such~~] other keys [~~as may be~~] necessary for the operation of the machine in registering votes, to the election officers of the precinct in which the machine is being used, who shall give the board ***a*** receipt [~~therefor~~] containing identification of ***the*** [~~such~~] keys. The master key and all other keys shall remain in the possession of the county board of elections.

(2) Any candidate, [~~and~~] one (1) representative of each political party having candidates[~~,~~] to be voted for at the election***,*** and representatives of the news media[~~,~~] may be present when the examination of the machines is made by the county board of elections.

Section 5. KRS 117.305 is amended to read as follows:

The canvass and returns provided for in KRS 117.275 shall constitute the official returns of the precinct, unless ***before 6:00 p.m. on the Tuesday following*** [~~within ninety-six (96) hours after the close of the polls in~~] a primary or regular election, or within twenty-four (24) hours after the close of the polls in a special election held for the purpose of filling a vacancy, the county clerk or county board of elections takes notice of a discrepancy in the tally of votes cast in any precinct or number of precincts, or a candidate makes a written request to the county board of elections to check and recanvass the voting machines and absentee ballots of any precinct or any number of precincts involving his race. After this time period has elapsed and notice is taken, the election board shall immediately assemble and recheck and recanvass each machine and make a proper return thereof to the county clerk, ***and*** [~~in which event~~] the canvass and return shall become the official returns for the election. In making the recanvass, the board shall make a record of the number of the seal upon the voting machine and without unlocking the machine against voting, recanvass the vote cast thereon. If, upon a recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that there still remains a discrepancy unaccounted for, this discrepancy shall be noted. The registering counter of each candidate who requested a recanvass and the counter of the candidate's opponent shall be reset at zero before it is tested, after which it shall be operated at least one hundred (100) times. If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly, except that there shall be no change in the vote of any candidate from that originally certified unless ***the*** [~~such~~] candidate was actually notified. The county board of elections shall, immediately upon receipt of a request for a recanvass, notify each candidate for the office of the time and place of the recanvass. At the recanvass, each political party represented on the board may appoint a representative there to be its governing body, and also each candidate to be voted for may be present either in person or by a representative or both. The county board of elections shall authorize representatives of the news media to observe the recanvass of the votes cast on the voting machine in each precinct. Nothing in this section shall prohibit an individual from requesting, in addition to a recanvass, a recount as authorized by KRS Chapter 120.

Section 6. KRS 117.315 is amended to read as follows:

(1) Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district, and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county ***no later than the Tuesday preceding*** [~~not less than seven (7) days before~~] the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same ***no later than the Friday preceding*** [~~at least four (4) days before~~] the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section.[~~, and~~] The challengers shall be registered voters of the county in which the primary is held[~~,~~] and shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the Circuit Court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.

(2) Any school board candidate, any independent ticket or candidate for city office, any nonpartisan city candidate, or candidate for an office of the Court of Justice at the primary or regular election may designate not more than one (1) challenger to be present at and witness the holding of primaries or elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the primary or election is held, shall be appointed in writing by the chairman of the committee, independent candidate, or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee, and shall produce written appointments on demand of any election officer.

(4) Except as provided in KRS Chapter 242, not later than ***the fourth Tuesday preceding*** [~~thirty (30) days prior to~~] an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested, to each committee not less than ***the third Tuesday*** [~~twenty (20) days immediately,~~] preceding the election, which committee is entitled to nominate the challengers and inspectors. ***The*** [~~Such~~] decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of ***the*** [~~such~~] committees shall be recognized as the one (1) to select inspectors and challengers at the election.

(5) The committee shall file the names of the persons nominated by it with the clerk of the county ***not later than the Tuesday preceding*** [~~at least five (5) days before~~] the election. The county board of elections shall, ***not later than the Thursday preceding the election*** [~~within two (2) days thereafter~~], certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

(6) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

Section 7. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

(5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.

(6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.

Section 8. KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters [~~83A and~~] 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one ***(1)*** county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not ***later than the last Tuesday in January preceding*** [~~less than one hundred nineteen (119) days before~~] the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not ***later than the last Tuesday in January preceding*** [~~less than one hundred nineteen (119) days before~~] the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers ***may*** [~~are permitted to~~] be filed.

(2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 9. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

(a) Not ***later*** [~~less~~] than ***the third Tuesday in February preceding*** [~~ninety-eight (98) days before~~] a primary;

(b) Not ***later*** [~~less~~] than ***the third Tuesday in August preceding*** [~~seventy-seven (77) days before~~] a general election, the certification ***of*** [~~to include only~~] candidates to federal office; and

(c) Not ***later*** [~~less~~] than ***the third Tuesday in August preceding*** [~~seventy-seven (77) days before~~] a general election, the certification to include all candidates except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be

elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not ***later*** [~~less~~] than ***the last Tuesday in February preceding*** [~~eighty-eight (88) days before~~] the primary or ***the last Tuesday in August preceding*** [~~sixtyfive (65) days before~~] the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote. All candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 10. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the last Tuesday in January preceding*** [~~one hundred sixteen (116) days before~~] the primary or ***the Thursday following the first Tuesday in August preceding*** [~~eighty-eight (88) days before~~] the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, ***on the Thursday following the last Tuesday in January*** [~~one hundred sixteen (116) days~~] before the primary or ***the Thursday following the first Tuesday in August preceding*** [~~eighty-eight (88) days before~~] the general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 11. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of

a political party at the time of the last preceding regular election. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters [~~of the same political party affiliation~~] from the district or jurisdiction from which the candidate seeks nomination. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number ***or date of birth***, and post-office address. Failure of a voter to include his Social Security number ***or date of birth*** and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 12. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not ***later*** [~~less~~] than ***the first Tuesday in August preceding*** [~~ninety-one (91) days before~~] the day fixed by law for the holding of regular elections.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not ***later*** [~~less~~] than ***the first Tuesday in August preceding the regular election*** [~~the date provided by the election laws generally for filing notification and declaration forms~~].

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not ***later*** [~~less~~] than ***the first Tuesday in August preceding*** [~~ninety-one (91) days before~~] the day fixed by law for the election of the person in nomination.

(5) [~~Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to one hundred six (106) days before the general election shall be filed not later than ninety-one (91) days prior to the general election.~~

~~(6)~~] Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not ***later*** [~~less~~] than ***the first Tuesday in August preceding*** [~~one hundred nineteen (119) days before~~] the day fixed by law for the holding of ***general*** [~~primary~~] elections. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not ***later*** [~~less~~] than ***the first Tuesday in August preceding*** [~~ninety-one (91) days before~~] the day fixed by law for the holding of general elections.

(6)[~~(7)~~] Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not ***later*** [~~less~~] than ***the last Thursday in August preceding*** [~~sixty-eight (68) days prior to~~] the date fixed by law for the election of the electors.

(7)[~~(8)~~] Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 13. KRS 118.415 is amended to read as follows:

(1) When an amendment to the Constitution has been proposed by the General Assembly, the Secretary of State shall cause the text of the proposed amendment to be published at least two (2) times in two (2) newspapers of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication shall be made ***not later than the last Tuesday in July*** [~~at least one hundred (100) days~~] preceding the election at which the amendment is to be voted on.

(2) The Attorney General shall state the substance of the amendment in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and shall certify the question to the ***Secretary of State*** [~~State Board of Elections~~] to be placed on the voting machine. The ***Secretary of State*** [~~State Board of Elections~~], not ***later*** [~~less~~] than ***the fourth Tuesday in August preceding*** [~~seventy (70) days before~~] the next regular election at which members of the General Assembly are to be chosen, shall certify the substance of the amendment, as stated and certified by the Attorney General, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(3) The votes cast for and against the amendment shall be counted, canvassed and certified to the State Board of Elections in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the Constitution.

(4) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the Secretary of State is required to make in connection with elections.

Section 14. KRS 118.555 is amended to read as follows:

(1) The state executive committee of each political party shall, pursuant to its party's rules, determine whether to distribute its party's authorized delegate votes for presidential candidates at its party's national convention based on the results of a party caucus, a presidential preference primary, or a combination of the two (2) methods. Each state executive committee shall notify the State Board of Elections of its decision not ***later*** [~~less~~] than ***the December 31 preceding*** [~~one hundred forty-seven (147) days prior to~~] the day for conducting a presidential preference primary as set by KRS 118.561.

(2) If a state executive committee determines that its party's authorized delegate votes for presidential candidates at its party's national convention shall be distributed based on the results of a party caucus, a presidential preference primary shall not be conducted for that political party, and the provisions of KRS 118.561 to 118.651 shall not apply. The distribution of delegates among the presidential candidates shall be determined by party rule.

(3) If a state executive committee determines that its party's authorized delegate votes for presidential candidates at its party's national convention shall be distributed based on the results of both a party caucus and a presidential preference primary, the formula for distribution of authorized delegate votes based on the results of a party caucus shall be determined by party rule. The distribution of delegates based on the results of a presidential preference primary shall be in accordance with the provisions of KRS 118.641(1). Regardless of the method by which the authorized delegate votes are distributed, the casting of votes on the first ballot at each party's national convention shall be in accordance with the provisions of KRS 118.641(2).

Section 15. KRS 118.581 is amended to read as follows:

The State Board of Elections shall convene in Frankfort ***on the second Tuesday in January preceding*** [~~one hundred forty (140) days prior to~~] a presidential preference primary. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those candidates of the political parties for the office of President of the United States who have qualified for matching federal campaign funds. Immediately upon completion of this requirement, the board shall transmit a list of all the nominees selected to the Secretary of State and shall also release the list to the news media.

Section 16. KRS 118.591 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of President of the United States, or any group organized in this state on behalf of, and with the consent of, the person, may file with the Secretary of State certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in the Commonwealth and are affiliated, by registration, with the same political party as the candidate for whom petitions are filed.

(2) The petitions shall be filed by the petitioners with the Secretary of State no later than ***the last Tuesday in January preceding*** [~~one hundred nineteen (119) days prior to~~] a presidential preference primary.

(3) The petitions shall state:

(a) The name of the candidate for nomination and the party of which he is a member; and

(b) The name and address of the chairman of the group circulating such petition.

(4) The Secretary of State shall determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed the petitions.

Section 17. KRS 118.601 is amended to read as follows:

(1) The Secretary of State shall contact each person who has been nominated by petition and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party.

(2) The order in which the names of candidates for a presidential preference primary are to be printed on the ballot shall be determined by lot at a public drawing in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the last Tuesday in January preceding*** [~~one hundred sixteen (116) days before~~] the presidential preference primary.

(3) Not ***later*** [~~less~~] than ***the third Tuesday in February preceding*** [~~ninety-eight (98) days before~~] the presidential preference primary [~~is to be held~~], and after the order of the names has been determined as provided by subsection (3) of this section, the Secretary of State shall certify to each county clerk the name, place of residence and party of each candidate, as specified in the notice of candidacy forms or petitions filed with him and shall designate the device with which the candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential ***electors*** [~~elections~~], followed by the political party which received the second highest number of votes.

Section 18. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or ***absentee*** [~~special~~] ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not ***later*** [~~less~~] than ***the last Tuesday in January preceding*** [~~one hundred nineteen (119) days before~~] the day fixed by law for holding the primary election. The petition shall be signed by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which ***the*** [~~such~~] papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the last Tuesday in January preceding*** [~~one hundred sixteen (116) days before~~] the primary election.

(5) Not ***later*** [~~less~~] than ***the third Tuesday in February preceding*** [~~ninety-eight (98) days before~~] the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or

"Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 19. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the first Tuesday in August preceding*** [~~eighty-eight (88) days before~~] the regular election.

(2) Not ***later*** [~~less~~] than ***the third Tuesday in August preceding*** [~~seventy-seven (77) days before~~] the regular election, and after the order of names on the ballot has been determined as required in subsection (1) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 20. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not ***later*** [~~less~~] than ***the second Tuesday in January preceding*** [~~one hundred thirty-four (134) days~~

~~before~~] the primary. If the vacancy occurs on or after ***that date*** [~~the one hundred thirty-fourth day before the primary~~], the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State ***not later than the first Tuesday in August preceding*** [~~at least ninety-one (91) days before~~] the day fixed by law for holding the regular election. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for candidacy shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time,.***on the Thursday following the first Tuesday in August preceding*** [~~eighty-eight (88) days before~~] the regular election.

(7) Not ***later*** [~~less~~] than ***the third Thursday in August preceding*** [~~seventy-seven (77) days before~~] the regular election, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 21. KRS 118A.130 is amended to read as follows:

No judicial candidate's name shall appear on any voting machine or ***absentee*** [~~special~~] ballot more than once.

SECTION 22. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) In the case of a precinct comprised of a small number of registered voters, the county board of elections may, pursuant to KRS 117.055, utilize the facilities of another precinct as a voting location. Additionally, the county board of elections may petition the State Board of Elections to allow the precinct election officers of the larger precinct to serve as precinct election officers for the precinct that is the subject of the petition. The petition shall designate both the smaller precinct and the larger precinct with which it is to be included, and the type of voting machine or machines to be used. The petition shall contain a full explanation of the reasons why inclusion is desirable.

(2) If the petition submitted pursuant to subsection (1) of this section is approved by the State Board of Elections, the election shall be conducted according to the following provisions:

(a) One voting machine may be utilized for both precincts if the State Board of Elections certifies that separate ballots may be placed upon the voting machine to be used without endangering the integrity of the ballots or without violating any other election law. Otherwise, separate voting machines shall be used for each precinct;

(b) Separate precinct voter rosters shall be maintained for each precinct, and steps shall be taken to insure that voters cast their ballot in their duly authorized precinct; and

(c) A separate set of elections forms and reports required by this chapter and the State Board of Elections shall be maintained for each precinct.

Section 23. Whereas it is imperative that a procedure be established to allow small precincts to conduct elections without the added expense of additional voting machines and precinct election officers, an emergency is declared to exist, and Section 22 of this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **SB 186** is as follows:

SB 186, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 116.065 is amended to read as follows:

Each application for registration, change of affiliation, transfer of registration or ***absentee*** [~~special~~] ballot, as ***absentee*** [~~special~~] ballots are provided for by KRS 117.075, shall be verified by a written declaration by the applicant that it is made under the penalties of perjury.

Section 2. KRS 117.0851 is amended to read as follows:

Absentee [~~Special~~] ballots cast, as provided by KRS 117.075, 117.077, and 117.085, shall all be tabulated in the same manner, as shall be provided by this chapter.

Section 3. KRS 117.145 is amended to read as follows:

(1) At least fifteen (15) days before any special election, and at least fifty (50) days before any primary or regular election, the county clerk of each county shall cause to be printed and ready for use ballot labels for each candidate who, and each question which, is entitled to be voted upon in such election. The ballot labels shall be printed on clear white paper or other material which shall be furnished by the printer. They shall be printed in black ink, in plain, clear type clearly legible to a person with normal vision, and shall be of ***a*** [~~such~~] size ***to*** [~~as will~~] fit the ballot frames. The labels shall include the necessary party designations.

(2) Each county clerk shall have printed a sufficient number of paper absentee ballots. The absentee ballot shall be used for voting by absent voters; by precinct officers who have been assigned to a precinct other than their own; by members of a county board of elections; by voters so disabled by age, infirmity or illness as to be unable to appear at the polls; and for voting in an emergency situation. The ballot stubs shall be consecutively numbered and the county board shall keep a record, by number, of all absentee ballots used for any of the purposes listed herein.

(3) ***No later than the Friday preceding*** [~~At least three (3) days before~~] a special or regular election, the county clerk shall equip the voting machines with the necessary supplies for the purpose of write-in votes. The county clerk shall also attach a pencil or pen to the voting machine for write-in purposes.

(4) If supplemental paper ballots have been approved as provided in KRS 118.215, the county clerk shall cause to be printed a sufficient number of paper ballots for the registered voters of each precinct. The paper ballots shall have stubs which are numbered consecutively. The quality of paper on which the supplemental paper ballots are printed shall be determined by regulations promulgated by the secretary of the Finance and Administration Cabinet.

Section 4. KRS 117.165 is amended to read as follows:

(1) Upon completing the preparation of the machines in accordance with the provisions of KRS 117.155, and not later than ***the Thursday preceding*** [~~three (3) days before~~] the day of the election, the county clerk shall notify the members of the county board of elections that the machines are ready for use. The board shall thereupon convene at the office of the county clerk, not later than ***the Friday preceding*** [~~two (2) days before~~] the day of the election, and examine the machines to determine whether the requirements of KRS 117.155 have been met. The county board of elections shall publish notice, in accordance with KRS 424.130(1)(d), at least twenty-four (24) hours in advance of the time when the machines are to be examined by the board. If found in proper order, the members of the county board of elections shall endorse their approval in the book in which the county clerk has entered the numbers of the machines opposite the numbers of the precincts. The clerk shall then deliver all of the keys to the machines to the county board of elections who shall give a receipt for the keys which shall contain identification of ***the*** [~~such~~] keys. Not later than one (1) hour before the time set for the opening of the polls, the board shall deliver all election supplies including the precinct list, tabulation sheets, and the key to the device covering the registering counters and [~~such~~] other keys [~~as may be~~] necessary for the operation of the machine in registering votes, to the election officers of the precinct in which the machine is being used, who shall give the board ***a*** receipt [~~therefor~~] containing identification of ***the*** [~~such~~] keys. The master key and all other keys shall remain in the possession of the county board of elections.

(2) Any candidate, [~~and~~] one (1) representative of each political party having candidates[~~,~~] to be voted for at the election, and representatives of the news media[~~,~~] may be present when the examination of the machines is made by the county board of elections.

Section 5. KRS 117.305 is amended to read as follows:

The canvass and returns provided for in KRS 117.275 shall constitute the official returns of the precinct, unless ***before 6:00 p.m. on the Tuesday following*** [~~within ninety-six (96) hours after the close of the polls in~~] a primary or regular election, or within twenty-four (24) hours after the close of the polls in a special election held for the purpose of filling a vacancy, the county clerk or county board of elections takes notice of a discrepancy in the tally of votes cast in any precinct or number of precincts, or a candidate makes a written request to the county board of elections to check and recanvass the voting machines and absentee ballots of any precinct or any number of precincts involving his race. After this time period has elapsed and notice is taken, the election board shall immediately assemble and recheck and recanvass each machine and make a proper return thereof to the county clerk, ***and*** [~~in which event~~] the canvass and return shall become the official returns for the election. In making the recanvass, the board shall make a record of the number of the seal upon the voting machine and without unlocking the machine against voting, recanvass the vote cast thereon. If, upon a recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that there still remains a discrepancy unaccounted for, this discrepancy shall be noted. The registering counter of each candidate who requested a recanvass and the counter of the candidate's opponent shall be reset at zero before it is tested, after which it shall be operated at least one hundred (100) times. If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly, except that there shall be no change in the vote of any candidate from that originally certified unless ***the*** [~~such~~] candidate was actually notified. The county board of elections shall, immediately upon receipt of a request for a recanvass, notify each candidate for the office of the time and place of the recanvass. At the recanvass, each political party represented on the board may appoint a representative there to be its governing body, and also each candidate to be voted for may be present either in person or by a representative or both. The county board of elections shall authorize representatives of the news media to observe the recanvass of the votes cast on the voting machine in each precinct. Nothing in this section shall prohibit an individual from requesting, in addition to a recanvass, a recount as authorized by KRS Chapter 120.

Section 6. KRS 117.315 is amended to read as follows:

(1) Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district, and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county ***no later than the Tuesday preceding*** [~~not less than seven (7) days before~~] the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same ***no later than the Friday preceding*** [~~at least four (4) days before~~] the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section.[~~, and~~] The challengers shall be registered voters of the county in which the primary is held[~~,~~] and shall be subject to the same penalties and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the Circuit Court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.

(2) Any school board candidate, any independent ticket or candidate for city office, any nonpartisan city candidate, or candidate for an office of the Court of Justice at the primary or regular election may designate not more than one (1) challenger to be present at and witness the holding of primaries or elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the primary or election is held, shall be appointed in writing by the chairman of the committee, independent candidate, or candidates representing a ticket, and shall produce

written appointment on demand of any election officer.

(3) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee, and shall produce written appointments on demand of any election officer.

(4) Except as provided in KRS Chapter 242, not later than ***the fourth Tuesday preceding*** [~~thirty (30) days prior to~~] an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certified mail, return receipt requested, to each committee not less than ***the third Tuesday*** [~~twenty (20) days immediately,~~] preceding the election, which committee is entitled to nominate the challengers and inspectors. ***The*** [~~Such~~] decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of ***the*** [~~such~~] committees shall be recognized as the one (1) to select inspectors and challengers at the election.

(5) The committee shall file the names of the persons nominated by it with the clerk of the county ***not later than the Tuesday preceding*** [~~at least five (5) days before~~] the election. The county board of elections shall, ***not later than the Thursday preceding the election*** [~~within two (2) days thereafter~~], certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

(6) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

Section 7. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, and primary elections shall apply to elections conducted with the use of voting machines, and all provisions of such laws with respect to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

(5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.

(6) If the law requires that a special election be held within a period of time during which the voting machines must be locked as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.

Section 8. KRS 118.165 is amended to read as follows:

(1) Except as provided in KRS Chapters [~~83A and~~] 116 to 121, candidates for offices to be voted for by the electors of one (1) county or of a district less than one ***(1)*** county, except members of Congress and members of the General Assembly, shall file their nomination papers with the county clerk of the county not ***later than the last Tuesday in January preceding*** [~~less than one hundred nineteen (119) days before~~] the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of Congress and members of the General Assembly, shall file their nomination papers with the Secretary of State not ***later than the last Tuesday in January preceding*** [~~less than one hundred nineteen (119) days before~~] the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers ***may*** [~~are permitted to~~] be filed.

(2) The Secretary of State or the county clerk shall examine the notification and declaration form of each candidate to determine whether it is regular on its face. If there is an error, the proper officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 9. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

(a) Not ***later*** [~~less~~] than ***the third Tuesday in February preceding*** [~~ninety-eight (98) days before~~] a primary;

(b) Not ***later*** [~~less~~] than ***the third Tuesday in August preceding*** [~~seventy-seven (77) days before~~] a general election, the certification ***of*** [~~to include only~~] candidates to federal office; and

(c) Not ***later*** [~~less~~] than ***the third Tuesday in August preceding*** [~~seventy-seven (77) days before~~] a general election, the certification to include all candidates except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they

seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not ***later*** [~~less~~] than ***the last Tuesday in February preceding*** [~~eighty-eight (88) days before~~] the primary or ***the last Tuesday in August preceding*** [~~sixty-five (65) days before~~] the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates for an office or offices and public questions submitted for a yes or no vote. All candidates for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

Section 10. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the last Tuesday in January preceding*** [~~one hundred sixteen (116) days before~~] the primary or ***the Thursday following the first Tuesday in August preceding*** [~~eighty-eight (88) days before~~] the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, ***on the Thursday following the last Tuesday in January*** [~~one hundred sixteen (116) days~~] before the primary or ***the Thursday following the first Tuesday in August preceding*** [~~eighty-eight (88) days before~~] the general election.

(4) If the number of certified candidates cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 11. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person

who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party at the time of the last preceding regular election. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters [~~of the same political party affiliation~~] from the district or jurisdiction from which the candidate seeks nomination. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number ***or date of birth***, and post-office address. Failure of a voter to include his Social Security number ***or date of birth*** and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 12. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the State Board of Elections shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not ***later*** [~~less~~] than ***the first Tuesday in August preceding*** [~~ninety-one (91) days before~~] the day fixed by law for the holding of regular elections.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not ***later*** [~~less~~] than ***the first Tuesday in August preceding the regular election*** [~~the date provided by the election laws generally for filing notification and declaration forms~~].

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not ***later*** [~~less~~] than ***the first Tuesday in August preceding*** [~~ninety-one (91) days before~~] the day fixed by law for the election of the person in nomination.

(5) [~~Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to one hundred six (106) days before the general election shall be filed not later than ninety-one (91) days prior to the general election.~~

~~(6)~~] Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not ***later*** [~~less~~] than ***the first Tuesday in August preceding*** [~~one hundred nineteen (119) days before~~] the day fixed by law for the holding of ***general*** [~~primary~~] elections. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not ***later*** [~~less~~] than ***the first Tuesday in August preceding*** [~~ninety-one (91) days before~~] the day fixed by law for the holding of general elections.

(6)[~~(7)~~] Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not ***later*** [~~less~~] than ***the last Thursday in August preceding*** [~~sixty-eight (68) days prior to~~] the date fixed by law for the election of the electors.

(7)[~~(8)~~] Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 13. KRS 118.415 is amended to read as follows:

(1) When an amendment to the Constitution has been proposed by the General Assembly, the Secretary of State shall cause the text of the proposed amendment to be published at least two (2) times in two (2) newspapers of general circulation published in this state, and shall also cause to be published at the same time and in the same manner the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication shall be made ***not later than the last Tuesday in July*** [~~at least one hundred (100) days~~] preceding the election at which the amendment is to be voted on.

(2) The Attorney General shall state the substance of the amendment in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and shall certify the question to the ***Secretary of State*** [~~State Board of Elections~~] to be placed on the voting machine. The ***Secretary of State*** [~~State Board of Elections~~], not ***later*** [~~less~~] than ***the fourth Tuesday in August preceding*** [~~seventy (70) days before~~] the next regular election at which members of the General Assembly are to be chosen, shall certify the substance of the amendment, as stated and certified by the Attorney General, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(3) The votes cast for and against the amendment shall be counted, canvassed and certified to the State Board of Elections in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the Constitution.

(4) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the Secretary of State is required to make in connection with elections.

Section 14. KRS 118.555 is amended to read as follows:

(1) The state executive committee of each political party shall, pursuant to its party's rules, determine whether to distribute its party's authorized delegate votes for presidential candidates at its party's national convention based on the results of a party caucus, a presidential preference primary, or a combination of the two (2) methods. Each state executive committee shall notify the State Board of Elections of its decision not ***later*** [~~less~~] than ***the December 31 preceding*** [~~one hundred forty-seven (147) days prior to~~] the day for conducting a presidential preference primary as set by KRS 118.561.

(2) If a state executive committee determines that its party's authorized delegate votes for presidential candidates at its party's national convention shall be distributed based on the results of a party caucus, a presidential preference primary shall not be conducted for that political party, and the provisions of KRS 118.561 to 118.651 shall not apply. The distribution of delegates among the presidential candidates shall be determined by party rule.

(3) If a state executive committee determines that its party's authorized delegate votes for presidential candidates at its party's national convention shall be distributed based on the results of both a party caucus and a presidential preference primary, the formula for distribution of authorized delegate votes based on the results of a party caucus shall be determined by party rule. The distribution of delegates based on the results of a presidential preference primary shall be in accordance with the provisions of KRS 118.641(1). Regardless of the method by which the authorized delegate votes are distributed, the casting of votes on the first ballot at each party's national convention shall be in accordance with the provisions of KRS 118.641(2).

Section 15. KRS 118.581 is amended to read as follows:

The State Board of Elections shall convene in Frankfort ***on the second Tuesday in January preceding*** [~~one hundred forty (140) days prior to~~] a presidential preference primary. At the meeting required by this section, the board shall nominate as presidential preference primary candidates all those candidates of the political parties for the office of President of the United States who have qualified for matching federal campaign funds. Immediately upon completion of this requirement, the board shall transmit a list of all the nominees selected to the Secretary of State and shall also release the list to the news media.

Section 16. KRS 118.591 is amended to read as follows:

(1) Any person seeking the endorsement by a political party for the office of President of the United States, or any group organized in this state on behalf of, and with the consent of, the person, may file with the Secretary of State certified petitions signed by five thousand (5,000) persons who, at the time they sign, are registered and qualified voters in the Commonwealth and are affiliated, by registration, with the same political party as the candidate for whom petitions are filed.

(2) The petitions shall be filed by the petitioners with the Secretary of State no later than ***the last Tuesday in January preceding*** [~~one hundred nineteen (119) days prior to~~] a presidential preference primary.

(3) The petitions shall state:

(a) The name of the candidate for nomination and the party of which he is a member; and

(b) The name and address of the chairman of the group circulating such petition.

(4) The Secretary of State shall determine the sufficiency of petitions filed with him and shall immediately communicate his determination to the chairman of the group which has filed the petitions.

Section 17. KRS 118.601 is amended to read as follows:

(1) The Secretary of State shall contact each person who has been nominated by petition and notify him in writing by certified mail, with return receipt requested, that his name will appear as a candidate on the Kentucky presidential primary ballot of his party.

(2) The order in which the names of candidates for a presidential preference primary are to be printed on the ballot shall be determined by lot at a public drawing in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the last Tuesday in January preceding*** [~~one hundred sixteen (116) days before~~] the presidential preference primary.

(3) Not ***later*** [~~less~~] than ***the third Tuesday in February preceding*** [~~ninety-eight (98) days before~~] the presidential preference primary [~~is to be held~~], and after the order of the names has been determined as provided by subsection (3) of this section, the Secretary of State shall certify to each county clerk the name, place of residence and party of each candidate, as specified in the notice of candidacy forms or petitions filed with him and shall designate the device with which the candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential ***electors*** [~~elections~~], followed by the political party which received the second highest number of votes.

Section 18. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or ***absentee*** [~~special~~] ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not ***later*** [~~less~~] than ***the last Tuesday in January preceding*** [~~one hundred nineteen (119) days before~~] the day fixed by law for holding the primary election. The petition shall be signed by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which ***the*** [~~such~~] papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the last Tuesday in January preceding*** [~~one hundred sixteen (116) days before~~] the primary election.

(5) Not ***later*** [~~less~~] than ***the third Tuesday in February preceding*** [~~ninety-eight (98) days before~~] the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or

"Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 19. KRS 118A.090 is amended to read as follows:

(1) For the regular election, the order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the first Tuesday in August preceding*** [~~eighty-eight (88) days before~~] the regular election.

(2) Not ***later*** [~~less~~] than ***the third Tuesday in August preceding*** [~~seventy-seven (77) days before~~] the regular election, and after the order of names on the ballot has been determined as required in subsection (1) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as certified under KRS 118A.060; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(3) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk. The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the regular elections the names of the candidates for offices of the Court of Justice.

(4) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(5) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 20. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not ***later*** [~~less~~] than ***the second Tuesday in January preceding*** [~~one hundred thirty-four (134) days~~

~~before~~] the primary. If the vacancy occurs on or after ***that date*** [~~the one hundred thirty-fourth day before the primary~~], the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State ***not later than the first Tuesday in August preceding*** [~~at least ninety-one (91) days before~~] the day fixed by law for holding the regular election. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for candidacy shall be in the form prescribed by the State Board of Elections. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, ***on the Thursday following the first Tuesday in August preceding*** [~~eighty-eight (88) days before~~] the regular election.

(7) Not ***later*** [~~less~~] than ***the third Thursday in August preceding*** [~~seventy-seven (77) days before~~] the regular election, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 21. KRS 118A.130 is amended to read as follows:

No judicial candidate's name shall appear on any voting machine or ***absentee*** [~~special~~] ballot more than once.

Section 22. KRS 117.235 is amended to read as follows:

(1) No person, other than the election officers and challengers, shall be permitted within the voting room while the vote is being polled, except for the purpose of voting or except by authority of the election officers to keep order and enforce the law.

(2) No officer of election shall do any electioneering on election day.

(3) No person shall do any electioneering at the polling place or within a distance of five hundred (500) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters on election day, unless the fiscal court or legislative body of an urban-county government specifically authorizes by ordinance on a county wide basis a greater distance from the polling place within which electioneering may be permitted, but in no case shall electioneering be allowed within five hundred (500) feet of any entrance to a building in which a voting machine is located if that entrance is unlocked and is used by voters. Electioneering shall include the displaying of signs, the distribution of campaign literature, cards or handbills, the soliciting of signatures to any petition, or the solicitation of votes for or against any candidate or question on the ballot in any manner, but shall not include exit polling. Nothing contained in this section shall prohibit electioneering conducted within a private residence or establishment other than that in which the polling place is located by persons having an ownership interest in such property.

(4) No voter shall be permitted to converse with others while in the voting room concerning their support or nonsupport of any candidate, party or issue to be voted on, except as provided in KRS 117.255.

(5) The election sheriff, under the supervision of the precinct election judges, shall enforce the election laws and maintain law and order at the polls and within fifty (50) feet of any entrance to the building in which the voting machine is located if that entrance is unlocked and is used by voters. Assistance may be requested of any law enforcement officer.

(6) Notwithstanding the provisions of subsection (1) of this section, the State Board of Elections may establish a program designed to instill in schoolchildren a respect for the democratic principles of voting by conducting in any county a mock election for schoolchildren in conjunction with any regular, primary, or special election. The State Board of Elections shall promulgate administrative regulations regarding the mock elections to insure that the regular voting process will not be impaired.

SB 221, AN ACT relating to the regulation of the conduct and financing of elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 121A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Commission" means the Kentucky Election Commission;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;

(4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, or nonmonetary contribution;

(5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary, runoff primary, or general election ballot and one that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount. "Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that was qualified under this chapter to receive a transfer from the fund for the primary;

(6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to Section 15 of this Act, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a bank insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;

(8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;

(9) "Committee" includes the following:

(a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; and

(d) An executive committee of a political party;

(10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars ($100) shall be reported to the commission;

(11) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;

2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;

3. Goods, advertising, or services furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services;

4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods, or services utilized by a candidate, committee, or contributing organization;

5. Expenditure in connection with any other activity undertaken independently of activities of a slate of candidates, of a committee, or of a contributing organization made or furnished for the purpose of influencing the results of an election.

(b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;

2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home, not for the purposes of fundraising, when the individual expends less than three hundred dollars ($300); or

3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; and

(12) "Knowingly" means with respect to conduct or to a circumstance described by a statute defining an offense that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

SECTION 2. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the commission.

(2) The commission shall distribute transfers for the matching of qualifying contributions to a qualifying slate of candidates for Governor and Lieutenant Governor as provided in Section 8 of this Act. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose.

(3) The commission shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each qualifying slate of candidates for qualifying contributions.

(4) The commission shall preserve all receipted bills and accounts required to be kept by this chapter for a period of four (4) years.

(5) All slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations, shall report all contributions and expenditures to the commission not less than every thirty (30) days following the formation and registration of the committee and not less than every fourteen (14) days during the fifty-six (56) days immediately preceding the primary election and the fifty-six (56) days immediately preceding the general election of a year in which a Governor and Lieutenant Governor are elected, in lieu of the reporting provisions of KRS 121.180(2)(a), (b), and (c). Slated candidates participating in a runoff primary shall report all expenditures to the commission fourteen (14) days before the runoff primary. All slated candidates shall make a final report to the commission not later than thirty (30) days following any election in which they participate.

(6) After each primary and each general election in a year in which a Governor and Lieutenant Governor are elected, the commission shall conduct a thorough examination and audit of the contributions to and campaign expenditures by any campaign committee of each slate of candidates and issue a separate report on each campaign committee.

(7) The commission shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) A qualifying slate of candidates for Governor and Lieutenant Governor that receives transfers from the fund may make campaign expenditures which, in the aggregate, including the expenditure of transfers from the fund, shall not exceed one million eight hundred thousand dollars ($1,800,000) in connection with a primary election campaign and one million eight hundred thousand dollars ($1,800,000) in connection with a general election campaign, subject to the provisions of subsections (4) and (5) of Section 8 of this Act, and three hundred thousand dollars ($300,000) in connection with a runoff primary campaign.

(2) The expenditure limit amounts established in subsection (1) of this section shall be increased or decreased in accordance with the consumer price index for all urban workers, and the commission shall annually make that adjustment, beginning in 1996.

(3) No qualifying slate of candidates for Governor and Lieutenant Governor that receives a transfer from the fund or that is otherwise subject to expenditure limitations shall exceed the expenditure limitations of subsection (1) of this section through an additional reported or unreported expenditure by any person, committee, or contributing organization which does not qualify as an "independent expenditure" as defined in KRS 121.150(1).

(4) A slate of candidates for Governor and Lieutenant Governor may receive contributions from permanent committees which, in the aggregate, shall not exceed ten percent (10%) of the qualifying contributions received by the slate of candidates.

(5) No qualifying slate of candidates for Governor and Lieutenant Governor that elects to receive a transfer from the fund for a primary or general election shall knowingly accept any other campaign contribution during the thirty (30) days immediately preceding a primary or general election unless:

(a) A qualifying slate of candidates that has elected to become eligible for fund transfers or who may in the future elect to become eligible for fund transfers shall be released from expenditure limitations following a certification by the commission pursuant to subsection (4) or (5) of Section 8 of this Act that a slate of candidates that has not elected to become eligible for fund transfers has exceeded the expenditure limits provided in subsection (1) of this section; or

(b) The matching ratio of fund transfers established in subsection (2)(c) of Section 6 of this Act has been reduced by the commission pursuant to subsection (3) of Section 8 of this Act. If the commission reduces the matching ratio of fund transfers, a qualifying slate of candidates that has elected to become eligible for fund transfers or that may in the future elect to become eligible for fund transfers, may accept aggregate qualifying contributions which, when added to the maximum threshold qualifying amount established in subsection (2)(c) of Section 6 of this Act and the amount equal to the reduced matching ratio of fund transfers shall not exceed the expenditure limit established in subsection (1) of this section unless a qualifying slate of candidates has been released from expenditure limitations pursuant to subsection (4) or (5) of Section 8 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) Each slate of candidates for Governor and Lieutenant Governor shall file with the commission a statement of intent to accept or to reject a transfer from the election campaign fund. The statement shall be filed not later than the deadline for filing nomination papers.

(2) A qualifying slate of candidates that intends to accept a transfer shall swear that the slate and the slate's authorized agents have complied with and will continue to comply with applicable contribution and expenditure limits.

(3) A slate of candidates shall designate in the statement of intent whether the slate will accept or reject a transfer in either the primary or the general election. A qualifying slate of candidates that receives a transfer from the fund in either the primary or general election shall be bound by the contribution and expenditure limits of Sections 3 and 5 of this Act throughout the campaign. A slate of candidates that rejects expenditure limitations in a primary shall not be eligible to receive a transfer from the fund in a runoff primary or the general election.

(4) Prior to the payment by the commission of either a primary election transfer or a general election transfer, a slate of candidates may rescind its statement of acceptance by filing a notice rescinding its acceptance not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.

SECTION 5. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) A slate of candidates that has filed a statement of intent to accept transfers from the fund and abide by the maximum expenditure limit which was not rescinded pursuant to subsection (4) of Section 4 of this Act shall not knowingly accept a contribution from a natural person, permanent committee, or contributing organization of more than five hundred dollars ($500) in any one (1) election. No natural person, permanent committee, or contributing organization shall knowingly make a contribution of more than five hundred dollars ($500) in any one (1) election to a slate of candidates that has filed a statement of intent to accept transfers from the fund and abide by the maximum expenditure limit which was not rescinded.

(2) A slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide by the maximum expenditure limit or one that has rescinded a statement of intent to accept transfers from the fund pursuant to subsection (4) of Section 4 of this Act shall not knowingly accept a contribution of more than one hundred dollars ($100) in any one (1) election from a natural person, permanent committee, or contributing organization. A slate of candidates that has accepted a contribution in excess of one hundred dollars ($100) that later rejects expenditure limitations or rescinds its acceptance of expenditure

limitations shall refund to the contributor the amount of a contribution in excess of one hundred dollars ($100). No natural person, permanent committee, or contributing organization shall knowingly make a contribution of more than one hundred dollars ($100) in any one (1) election to a slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide by the maximum expenditure limit or one that has rescinded a statement of intent to accept transfers from the fund.

(3) No slate of candidates shall knowingly accept any cash contribution from a natural person, permanent committee, or contributing organization. No natural person, permanent committee, or contributing organization shall knowingly make a cash contribution to a slate of candidates.

SECTION 6. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or general election, or both, a slate of candidates shall request certification from the commission in a form and in the manner which the commission shall prescribe by administrative regulations promulgated in accordance with this chapter.

(2) The commission shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) A copy of the slate's nomination papers;

(c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio. The threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor that elects to be eligible to receive a transfer from the fund in a primary election shall be six hundred thousand dollars ($600,000) in qualifying contributions. The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a general election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a general election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district. No transfer from the fund shall be made for qualifying contributions which a slate of candidates may receive in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to subsection (4) or (5) of Section 8 of this Act. The threshold qualifying amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the commission shall annually make that adjustment, beginning in 1996; and

(d) Any other information reasonably necessary that is required by the commission.

(3) The commission shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) calendar days after the slate submits the required documentation.

(4) The commission shall certify whether a slate of candidates is eligible to receive a general election transfer not later than seven (7) calendar days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the commission.

(5) A separate determination and certification shall be made for a primary and a general election.

(6) The certification issued by the commission shall indicate:

(a) Whether a slate of candidates is eligible to receive a transfer; and

(b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.

(7) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or general election at the times and in the manner which the commission shall prescribe by administrative regulation.

(8) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:

(a) State the reasons why the slate of candidates is not eligible to receive a transfer; and,

(b) What action, if any, the slate of candidates may take to qualify for a transfer.

(9) A slate of candidates may file with the commission a written request to review the determination of the commission no later than seven (7) calendar days after the date of certification.

(10) A slate of candidates denied certification by the commission may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure.

(11) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary upon the commission's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election.

SECTION 7. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) All transfers received from the fund by a qualifying slate of candidates and all contributions or personal resources of any slate of candidates to be used for campaign expenditures shall be deposited in the candidate campaign account.

(2) For each deposit in excess of one hundred dollars ($100) made in the account of any slate of candidates for Governor and Lieutenant Governor, there shall be retained by the campaign treasurer a short statement, in the form prescribed by the commission, showing:

(a) The amount of each contribution or amount of personal resources deposited;

(b) The date each contribution was received or each amount of personal resources was made available, and;

(c) The name, address, and, in the case of individuals, occupation and employer of each contributor and each employed individual residing with the contributor, and, if a contribution is made from the personal resources of the slate of candidates, the banks and account numbers from which the funds were transferred and an explanation of how the contributed funds were acquired. The occupation listed for each contributor shall be specific. A general classification, such as "businessman," shall be insufficient. If the contributor or any individual residing with the contributor is self-employed, the name under which he is doing business shall be listed.

(3) The slate of candidates shall designate in writing, to be filed with the commission, not more than three (3) individuals who shall be authorized, in addition to the slate, to withdraw funds from the candidate campaign account.

(4) No individual authorized to make withdrawals from the candidate campaign account shall pay any amount out of the account for goods or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe disbursements to persons, the name, address, occupation, and employer of each person, and the date and the amount disbursed. These invoices shall be preserved by the slate of candidates and made available for reasonable inspection and auditing by employees of the commission.

SECTION 8. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) If the commission certifies that a qualifying slate of candidates is eligible to receive a transfer from the fund, the slate may submit a transfer entitlement voucher to the commission, complying with the procedures of subsection (7) of this section. A transfer entitlement voucher may document total qualifying contributions of not less than three hundred thousand dollars ($300,000) but not more than six hundred thousand dollars ($600,000) for receipt of a fund transfer in an amount equal to twice the amount of qualifying contributions documented. A qualifying slate may submit multiple transfer entitlement vouchers as additional qualifying contributions are received in a general election, but the maximum amount of fund transfers a slate may receive in a primary or general election shall not exceed twice the amount of the maximum threshold qualifying amount, subject to the provisions of subsections (4) and (5) of this section.

(2) The fund transfer which a qualifying slate of candidates for Governor and Lieutenant Governor in a runoff primary may receive shall be three hundred thousand dollars ($300,000).

(3) The fund transfer amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the commission shall annually make that adjustment, beginning in 1996. If, during the course of a primary or general election, the commission determines that the existing appropriations in the fund are insufficient to cover the anticipated fund transfers, the commission shall reduce the matching ratio to the ratio the commission determines so as not to exceed the amount of the fund, which shall be applied retroactively to all transfers made to qualifying slates of candidates.

(4) (a) If the commission makes a finding of fact, after a public hearing of which all slates of candidates for Governor and Lieutenant Governor shall be notified, that in the course of a primary election or general election campaign a slate of candidates for Governor and Lieutenant Governor that has not accepted the provisions of this chapter has exceeded the expenditure limit as provided in subsection (1) of Section 3 of this Act, the commission shall certify that those slates of candidates that have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers shall be released from expenditure limitations and shall continue to be eligible to receive transfers from the fund;

(b) The commission shall conduct a public hearing within three (3) days after any report submitted to the commission by a campaign committee of a slate of candidates indicates that expenditure limits have, or may have, been exceeded; and

(c) A public hearing shall be conducted within three (3) days upon petition to the commission by a slate of candidates that, upon its knowledge and belief, another slate of candidates has exceeded expenditure limitations.

(5) Nothing in this section shall prevent any slate of candidates from notifying the commission in writing that its campaign committee has exceeded the expenditure limitations established by law. In that case, no public hearing shall be held and the commission shall certify that those slates of candidates who have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers shall be released from expenditure limitations and shall continue to be eligible to receive transfers from the fund if qualified by law.

(6) Any carryover of money in a candidate campaign account, from whatever source derived, received prior to the date of the primary election if the slate of candidates is seeking the primary nomination of its party, shall be counted for purposes of expenditure limitations in the general election but shall not be counted for purposes of receiving a transfer from the fund or for meeting the threshold qualifying amount.

(7) To receive fund transfers for which it is eligible, each qualifying slate of candidates shall submit to the commission at the times and in the form and manner the commission may require, a transfer entitlement voucher. The voucher shall include the full name of all persons making a contribution to the campaign committee of the slate of candidates together with the date, the exact amount of the contribution, the specific address of the contributor, the congressional district in which the contributor resides, the occupation and employer of the contributor and each employed individual residing with the contributor, or if the contributor or any individual residing with the contributor is self-employed, the name under which he is doing business, and any other information the commission may require.

(8) Within three (3) working days of the receipt of the voucher, the commission shall:

(a) Make a determination, according to the procedures the commission may establish by administrative regulation, whether each contribution enumerated on the voucher is consistent with the provisions of this chapter;

(b) Certify for payment to the qualifying slate of candidates the amount of fund transfer for which it is eligible; and

(c) Promptly upon certification, issue a warrant on the fund for a transfer to the qualifying slate of candidates or its authorized treasurer in the amount certified by the commission.

(9) For the purpose of financing primary election campaigns, the commission shall make no transfer to a qualifying slate of candidates entitled to transfers from the fund earlier than January 1 of a year in which the Governor and Lieutenant Governor are elected.

(10) For the purpose of financing general election campaigns, if a qualifying slate of candidates is not participating in a primary or is unopposed in a primary, the commission shall make no transfer to that slate from the fund earlier than the date the results of the primary election preceding the general election of a year in which the Governor and Lieutenant Governor are elected are certified. If a qualifying slate of candidates is unopposed in a general election, the commission shall make no payment to that slate from the fund for the general election.

(11) If a vacancy occurs in a slate of candidates before the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the commission not later than the deadline for printing primary election ballots, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a vacancy occurs in a slate of candidates after the ballots are printed for the primary election, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the commission. If a replacement for a vacant candidate is made after the ballots are printed for the primary election, notices informing the voters of the change in the composition of the slate shall be posted at each precinct polling place.

(12) The provisions of KRS 118.105 shall apply to vacancies occuring in the nomination of a qualifying slate of candidates.

(13) If during the course of a primary or general election, a qualifying slate of candidates withdraws, is otherwise removed from the ballot, becomes the only slate of candidates for a party nomination or election

on the ballot, or if both candidates on the slate die, the commission shall certify and pay on vouchers previously submitted by that slate, but any subsequent vouchers submitted by that slate shall not be certified nor shall transfers be made.

(14) The commission shall not certify any contribution made to a qualifying slate of candidates entitled to transfers from the fund, which, when added to other contributions made by the same contributor to the slate in connection with the primary election and in connection with the general election, violates the provisions of Section 5 of this Act or KRS 121.150.

(15) The commission shall perform a continuing audit of all slates of candidates for Governor and Lieutenant Governor to ensure that they are in compliance with this chapter and the election laws of the Commonwealth.

SECTION 9. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

If it appears, after a qualifying slate of candidates has filed financial statements as required by KRS 121.180 for the general election, that an unexpended balance of contributions and fund transfers exists which is not otherwise obligated for the payment of the expenses of the completed general election, the unobligated funds shall be forwarded to the commission for deposit in the fund. The payment shall be due and owing within ten (10) working days after the filing of the final financial statement for a particular general election.

SECTION 10. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

Any qualifying slate of candidates that receives a transfer from the fund shall comply with and be subject to all campaign finance requirements contained in KRS Chapter 121 to the extent that the requirements are not inconsistent with the provisions of this chapter.

SECTION 11. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) Any qualifying slate of candidates that elects to receive a transfer from the fund shall participate preceding the primary, runoff primary, if one is held, and general election of a year in which the Governor and Lieutenant Governor are elected in a reasonable number of televised candidate forums or debates managed and designed by the Kentucky Authority for Educational Television in a manner to ensure participation by all slates of candidates. The authority shall make the televised candidate forums or debates available at no charge to all other media. The authority shall promulgate administrative regulations necessary to implement the requirements of this subsection.

(2) All programming decisions concerning televised candidate forums or debates shall be the ultimate responsibility of the Kentucky Authority for Educational Television. The authority shall maintain editorial integrity in accordance with accepted public broadcasting principles. No appointed or elected state officeholder or any other person shall directly or indirectly attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any person assigned responsibility for candidate forum or debate programming decisions no alternative but to comply with the wishes of the officeholder or person. Persons assigned candidate forum or debate programming decisions shall be free of obligation or the appearance of obligation to any interest other than the public right to know. It shall not be considered a violation of this subsection for an office holder or other person to seek remedies in a court of law to any programming decision he considers to be an abridgement of his legal rights.

(3) The commission shall promulgate administrative regulations which prescribe the grounds for which failure of a qualifying slate of candidates to participate in any of the televised candidate forums or debates required by subsection (1) of this section shall be excused, the process by which a qualifying slate of candidates shall inform the commission of the grounds for its failure to participate, and the process by which a qualifying slate of candidates may appeal an adverse ruling by the commission.

(4) If the commission determines that failure of a qualifying slate of candidates to participate in any televised candidate forum or debate required by subsection (1) of this section was not justified, no fund transfer shall be made to the slate if it shall be otherwise qualified to receive one. If the commission determines that a slate that has already received a fund transfer has unjustifiably failed to participate in any required televised candidate forum or debate, the slate's campaign committee shall reimburse the fund the amount of the transfer within thirty (30) days of the date on which the commission's determination becomes final. If the slate's campaign committee has not reimbursed the fund the amount of the transfer within the thirty (30) day period, the slate shall be personally liable to the fund for the transfer amount to be reimbursed.

SECTION 12. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

No slate of candidates or individual who receives any transfer from the fund, or to whom any portion of any transfer received from the fund is paid, shall knowingly use, or authorize the use of, the transfer or portion thereof for any purpose other than to defray the qualified campaign expenses with respect to which the payment was made or to expend the funds on any item or service otherwise prohibited under this chapter or the laws of this Commonwealth.

SECTION 13. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) (a) Any qualifying slate of candidates, authorized treasurer, or any other individual who knowingly violates the expenditure limitations imposed by Section 3 of this Act or the contribution limitations imposed by Section 5 of this Act, knowingly misuses any transfers from the fund in violation of Section 12 of this Act, or knowingly falsifies any record required to be submitted or retained by the slate under this chapter shall be guilty of a Class D felony, and shall be disqualified from being appointed to or becoming a candidate for public office, or holding public office, for a period of five (5) years from the date of final judicial determination of guilt.

(b) In addition to the penalties set out in this subsection, pursuant to Section 151 of the Constitution of Kentucky, any qualifying slate of candidates nominated or elected prior to a final judicial determination that the slate has knowingly committed any of the violations contained in this subsection shall, upon that final judicial determination, forfeit the nomination or election, and, if the slate of candidates has assumed office, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve.

(c) In addition to the penalties set out in this subsection, if any qualifying slate of candidates, authorized treasurer, or any other individual acting in complicity with the slate or treasurer is convicted of a violation of this subsection, the court shall order the defendant, the slate, and the campaign committee treasurer to immediately refund all fund transfers to the election campaign fund and shall enter a judgment lien against the slate and its campaign committee for that purpose.

(2) Any appointed or elected state officeholder or any other person who knowingly violates the provisions of subsection (2) of Section 11 of this Act, or of any administrative regulation promulgated by the Kentucky Authority for Educational Television under subsection (1) of Section 11 of this Act, shall be guilty of a Class D felony. In the event a slate of candidates has assumed office, upon a final judicial determination of guilt, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve.

(3) Any individual who knowingly violates any other provisions of Sections 1 to 12 of this Act, or of any administrative regulation promulgated by the commission under Sections 1 to 12 of this Act, shall be guilty of a Class D felony. In the event a slate of candidates has assumed office, upon a final judicial determination of guilt, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve.

(4) If the commission determines that probable cause exists to believe a violation of this chapter has knowingly occurred, the commission shall immediately transmit its determination to the appropriate Commonwealth's attorney and the Attorney General.

SECTION 14. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

This chapter shall be known as the "Public Financing Campaign Act."

SECTION 15. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

A candidate for Governor filing a notification and declaration pursuant to KRS 118.125 shall list on the notification and declaration the name of the candidate for Lieutenant Governor who shall jointly appear on the ballot with him. The slate of candidates for Governor and Lieutenant Governor shall be nominated jointly by the casting by each voter of a single vote applicable to both offices. No candidate for Governor or Lieutenant Governor shall appear individually on the ballot for the nomination he is seeking.

Section 16. KRS 121.015 is amended to read as follows:

As used in ***this chapter*** [~~KRS 121.110 to 121.200, and 121.990~~]:

(1) "***Commission*** [~~Registry,~~]" means the Kentucky ***Election Commission*** [~~Registry of Election Finance~~];

(2) "Election[~~,~~]" means any primary, ***runoff primary,*** regular, or special election to fill vacancies;

(3) "Committee[~~,~~]" ***includes*** [~~means one (1) of~~] the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates for nomination or election to any state, county, city, or district office;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; ***and*** [~~or~~]

(d) An executive committee of a political party;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by ***the*** [~~such~~] groups in excess of one hundred dollars ($100) shall be reported to the ***commission*** [~~registry~~];

(5) "Testimonial affair[~~,~~]" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to[~~,~~] a political office in this state[~~,~~] designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution[~~,~~]" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, ***a committee, or contributing organization*** [~~or political committee~~]. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a [~~political~~] committee, ***contributing organization*** candidate, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum ***which, when combined with all other contributions the individual makes to the candidate, his agent, the committee, or the contributing organization, exceeds*** [~~in excess of~~] the contribution ***limits*** [~~limit~~] provided in KRS 121.150[~~(5)~~];

(b) Payment by any person other than the candidate, his authorized treasurer, ***a committee, or a contributing organization*** [~~or political committees~~], of compensation for the personal services of another person which are rendered to a ***candidate, committee, or contributing organization*** [~~candidate's campaign~~];

(c) Goods, advertising, or services furnished to a ***candidate, committee, or contributing organization*** [~~candidate's campaign~~] without charge, or at a rate which is less than the rate normally charged for ***the*** [~~such~~] goods or services;

(d) Payment by any person other than the candidate, his authorized treasurer, ***a committee, or contributing organization*** [~~or political committees~~] for any goods[~~,~~] or services utilized ***by a candidate, committee, or contributing organization*** [~~in a candidate's campaign~~];

(e) Expenditure in connection with any other activity undertaken independently of ***a candidate's, committee's, or contributing organization's activities*** [~~the candidate's campaign~~] made or furnished for the purpose of influencing the results of an election; or

(f) Notwithstanding ***the*** foregoing meanings of ***"contribution,"*** [~~"contributions,"~~] the word shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate***, committee, or contributing organization***;

2. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; [~~and~~]

(7) "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office***;***

(8) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to Section 15 of this Act, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(9) "Knowingly" means with respect to conduct or to a circumstance described by a statute defining an offense that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists; and

(10) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for public office.

SECTION 17. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) No elected official or any of his appointees shall award any nonbid contract with the governing authority which the elected official serves to any entity whose officers or employees, or the spouses of officers or employees, knowingly contributed in excess of five thousand dollars ($5,000) in the aggregate per election to the election campaign of the elected official during the term of office following the election campaign in which the contributions were made.

(2) No entity whose officers or employees, or the spouses of officers or employees, have knowingly contributed in excess of five thousand dollars ($5,000) in the aggregate per election to the election campaign of any elected official shall receive any nonbid contract with the governing authority which the elected official serves during the term of office following the election campaign in which the contributions were made.

(3) No elected official or any of his appointees shall award any nonbid contract, lease, or appointment to any office or board with the governing authority which the elected official serves to any person who has acted as a fundraiser by directly soliciting contributions to the election campaign of the elected official who secured in excess of thirty thousand dollars ($30,000) in contributions in the aggregate per election for the election campaign, or to his immediate family, employer, or employee, during the term of office following the election campaign in which the contributions were made, nor shall any award of a nonbid contract or lease with the governing authority be made to the entity in which the person has an interest.

(4) No person who has acted as a fundraiser by directly soliciting contributions for the election campaign of an elected official who secured in excess of thirty thousand dollars ($30,000) in contributions in the aggregate per election for the election campaign, nor his immediate family, employer, or employee, shall receive any nonbid contract, lease, or appointment to any office or board with the governing authority which the elected official serves during the term of office following the election campaign in which the contributions were made, nor shall an entity in which the person has an interest receive a nonbid contract or lease with the governing authority.

(5) For the purposes of this section, "entity" means any person, sole proprietorship, partnership, unincorporated association, unincorporated company, joint stock company, public service corporation, professional services corporation, corporation, or any other business organization.

(6) For the purposes of this section, "immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(7) For the purposes of this section, "governing authority" means the elected legislative, executive, and judicial officers charged with the administration of the affairs of the political subdivision which they serve.

Section 18. KRS 45A.110 is amended to read as follows:

(1) A written determination of responsibility of a bidder or offeror shall be made and it shall be made in accordance with ***administrative*** regulations ***promulgated*** [~~issued~~] by the secretary of the Finance and Administration Cabinet. A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted. The failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such a bidder or offeror.

(2) ***A written determination of responsibility of a bidder or offeror shall not be made until the bidder or offeror provides the secretary of the Finance and Administration Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to a bidder or offeror will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.***

(3) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the Division of State Purchasing or the purchasing agency administering the contract without prior written consent of the bidder or offeror.

Section 19. KRS 45A.115 is amended to read as follows:

The secretary of the Finance and Administration Cabinet may provide for prequalification of suppliers as responsible prospective contractors for particular types of supplies, services, and construction. ***The secretary of the Finance and Administration Cabinet shall not prequalify a supplier as a responsible prospective contractor until the supplier provides the secretary with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the supplier will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.*** Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified suppliers. Prequalification shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

Section 20. KRS 45A.395 is amended to read as follows:

(1) A written determination of responsibility of a bidder or offeror shall be made, based on a reasonable inquiry conducted by the local public agency. The unreasonable failure of a bidder or offeror to promptly supply information upon request may be grounds for a determination of nonresponsibility of such bidder or offeror.

(2) ***A written determination of responsibility of a bidder or offeror shall not be made until the bidder or offeror provides the local public agency with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the bidder or offeror will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.***

(3) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the local public agency without prior written consent of the bidder or offeror.

Section 21. KRS 45A.400 is amended to read as follows:

Suppliers may be prequalified as responsible prospective contractors for particular types of supplies, services and construction. ***No supplier shall be prequalified as a responsible prospective contractor until the supplier provides the local public agency with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the supplier will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.*** Solicitation mailing lists of potential contractors of such supplies, services and construction shall include, but shall not be limited to, such prequalified prospective contractors. Prequalification shall not foreclose a written determination:

(1) Between the time of bid opening or receipt of offers in the making of an award that a prequalified prospective contractor is not responsible; or

(2) That a prospective contractor who is not prequalified at the time of bid opening or receipt of offers is responsible.

SECTION 22. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

No person shall be qualified to hold any appointive state office or position, made by gubernatorial appointment, until the person provides the commissioner of the Department of Personnel with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that his appointment to a state office or position will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Section 23. KRS 176.150 is amended to read as follows:

(1) No ***applicant*** [~~bidder~~] shall be given a certificate of eligibility unless his financial statement and the investigation made by the department show that he possesses net current assets or working capital sufficient in the judgment of the department to render it probable that he can satisfactorily execute his contracts and meet obligations therein incurred. All applications for certificates shall expressly authorize the department to obtain all information which it deems pertinent with respect to the financial status, assets, and liabilities of the applicant from any persons having business transactions with the applicant, and shall expressly authorize all ***those*** [~~such~~] persons to furnish any [~~such~~] information requested from them by the department.

(2) ***No applicant shall be given a certificate of eligibility until the applicant provides the secretary of the Transportation Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the applicant will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.***

(3) Certificates of eligibility shall be issued without reference to the residence of applicants and the ***administrative*** [~~rules and~~] regulations regarding the issuance of certificates shall apply equally to residents and nonresidents. A certificate of eligibility shall not be denied to any applicant upon the sole issue of nationality or residence.

(4)[~~(3)~~] When the applicant is a foreign corporation the application shall be accompanied by a certificate from the Secretary of State that such corporation is authorized to do business in the state in which it is incorporated.

Section 24. KRS 121.045 is amended to read as follows:

No person [~~other than a corporation,~~] and no agent of ***any*** [~~such~~] person on his behalf, shall contribute, either directly or indirectly, any money, service, or other thing of value towards the nomination or election of any state, county, city, or district officer who, in his official capacity, is required by law to perform any duties peculiar to ***the*** [~~such~~] person not common to the general public, or to supervise, regulate, or control in any manner the affairs of ***the*** [~~such~~] person, or to perform any duty in assessing the property of ***the*** [~~such~~] person for taxation. No [~~such~~] person, and no agent of ***any*** [~~such~~] person on his behalf, shall pay, promise, loan, or become liable in any way for any money or other valuable thing on behalf of any candidate ***or slate of candidates*** for any [~~such~~] office at any election, primary, or nominating convention held in this state. No attorney or other person shall accept employment and compensation from any [~~such~~] person with the understanding or agreement, either direct or implied, that he will contribute to any candidate ***or slate of candidates*** for any [~~such~~] office, or on his behalf, any part or all of ***his*** [~~such~~] compensation, towards the nomination or election of ***any*** [~~such~~] candidate ***or slate of candidates*** .

Section 25. KRS 121.056 is amended to read as follows:

(1) No person who contributes more than ***the maximum legal contribution established by Section 5 of this Act in an election*** [~~four thousand dollars ($4,000)~~] to a ***slate of candidates for Governor and Lieutenant Governor that is elected to office*** [~~gubernatorial candidate~~] shall hold any appointive state office or position, which shall be made by gubernatorial appointment, during the term of office following the campaign in which the contribution shall be made.

(2) No person who has contributed more than ***the maximum legal contribution established by Section 5 of this Act in an election to a slate of candidates for Governor and Lieutenant Governor that is elected to office*** [~~four thousand dollars ($4,000)~~] or any entity in which such a person has a substantial interest shall have any contract with the Commonwealth of Kentucky ***during the term of office following the campaign in which the contributions shall be made*** unless ***the*** [~~said~~] contract shall be attained by competitive bidding and the person or entity shall have the lowest and best bid.

(a) "Substantial interest" means the person making the contribution owns or controls ten percent (10%) or more of an entity or a member of the person's immediate family owns or controls ten percent (10%) of ***the*** [~~such~~] entity or the person and his immediate family together own or control ten percent (10%) or more of ***the*** [~~such~~] entity.

(b) "Immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(3) No person shall give or conspire to contribute money or property to any other person for the purpose of making a campaign contribution, in violation of this section[~~, if the money or property contributed together with any other contribution made by such person would exceed the limit on individual campaign contributions~~]. The restrictions established by subsections (1) and (2) of this section to a person who shall contribute in excess of ***the maximum legal contribution established by Section 5 of this Act in an election*** [~~four thousand dollars ($4,000)~~] as provided by those subsections, shall apply to a person who makes a total contribution in excess of ***the maximum legal contribution established by Section 5 of this Act in an election to a slate of candidates for Governor and Lieutenant Governor that is elected to office*** [~~four thousand dollars ($4,000)~~] as provided by this subsection.

Section 26. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall ***knowingly*** be made or received, and no expenditure of money or other thing of value[~~,~~] shall ***knowingly*** be made or incurred, directly or indirectly, other than an "independent expenditure," to support or defeat a candidate ***or slate of candidates*** in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate***, slate of candidates,*** or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate and which is not made with any direct or indirect cooperation, consent, request, [~~or~~] suggestion***,*** or consultation involving a candidate***, slate of candidates, campaign*** [~~or his authorized~~] committee***,*** or agent. Any person making an "independent expenditure," as defined ***in this subsection*** [~~herein~~]***, shall*** [~~must~~] report these expenditures[~~,~~] when ***the expenditures exceed five*** [~~he exceeds three~~] hundred dollars ***($500) in the aggregate*** [~~($300)~~] per ***election*** [~~calendar year~~], on forms provided by the ***commission*** [~~registry~~].

(2) ***Except as provided in KRS 121.180(10),*** the solicitation from and contributions by candidates***, slates of candidates,*** and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; ***except*** [~~provided~~] that it

shall not be construed as a violation of this section for a candidate ***or slate of candidates*** to continue regular personal contributions to religious, civic, or charitable groups, of which ***the candidate or slate of candidates*** [~~he~~] is a member or to which ***the candidate or slate of candidates*** [~~he~~] has been a regular contributor for more than six (6) months.

(3) No candidate, ***slate of candidates,*** committee, or contributing organization, nor anyone acting on their behalf, shall ***knowingly*** accept any anonymous contribution [~~in excess of one hundred dollars ($100)~~], and all ***anonymous*** [~~such~~] contributions [~~in excess of one hundred dollars ($100)~~] shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state ***and be transferred to the Crime Victims' Compensation Fund.***

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall ***knowingly*** accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate, ***slate of candidates,*** committee, contributing organization, nor anyone on their behalf, shall ***knowingly*** accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, [~~or~~] ***campaign*** committee***, nor*** [~~or~~] anyone acting ***on their behalf*** [~~for the candidate~~], shall ***knowingly*** accept a contribution of more than ***five hundred*** [~~four thousand~~] dollars ***($500)*** [~~($4,000)~~] from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, ***his campaign*** [~~or~~] committee***, nor*** [~~or~~] anyone acting ***on their behalf*** [~~for the candidate~~] shall ***knowingly*** accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee[~~,~~] or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall ***knowingly*** contribute more than ***five hundred*** [~~four thousand~~] dollars ***($500)*** [~~($4,000)~~] to any one (1) candidate, ***campaign committee, nor*** [~~or~~] anyone acting ***on their behalf*** [~~for the candidate~~], in any one (1) election; except that no person shall ***knowingly*** contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall ***knowingly*** contribute more than two hundred dollars ($200) to any one (1) school board candidate, ***his campaign*** committee***, nor*** [~~or~~] anyone acting ***on their behalf*** [~~for the candidate~~], in any one (1) election. ***Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of Section 5 of this Act. No person, permanent committee, or contributing organization shall contribute more than twenty-five thousand dollars ($25,000) in the aggregate to all candidates, slates of candidates, and their campaign committees in any one (1) election.***

(7) Except for permanent committees organized as of January 1, 1988, permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the ***Kentucky Election Commission*** [~~Registry of Election Finance~~], shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute more than ***five hundred*** [~~four thousand~~] dollars ***($500)*** [~~($4,000)~~] to all permanent committees and contributing organizations in any one (1) year.

(10) No person shall contribute more than ***two thousand five hundred dollars ($2,500)*** [~~six thousand dollars ($6,000)~~] to the state executive committee of a political party and ***its*** [~~their~~] subdivisions and affiliates in any one (1) year. ***Contributions a person makes to a political party in excess of five hundred dollars ($500) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.***

(11) No person shall make a ***payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall knowingly accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf*** [~~contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person~~].

(12) No ***candidates running as a slate*** [~~candidate~~] for the ***offices*** [~~office~~] of Governor ***and Lieutenant Governor*** shall make ***combined total*** [~~a~~] personal ***loans*** [~~loan~~] to ***their*** [~~his~~] committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) ***in any one (1) election***.

(13) No candidate ***or slate of candidates*** for nomination to any state, county, city, or district office, nor ***their campaign committees*** [~~committee~~], nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate ***or slate of candidates*** shall contribute for primary election expenses after the date of the primary.

(14) No candidate ***or slate of candidates*** for any state, county, city, or district office at a general election, nor ***their campaign committees*** [~~committee~~], nor anyone on their behalf, shall solicit or accept contributions for general election expenses after the date of the general election. No person other than the candidate ***or slate of candidates*** shall contribute for general election expenses after the date of the general election.

(15) The provisions of subsections (13) and (14) of this section shall apply only to those candidates ***or slate of candidates*** in a primary or election which shall be conducted subsequent to January 1, 1989.

(16) No ***slate of candidates*** [~~candidate~~] for Governor ***and Lieutenant Governor*** or ***their*** [~~the~~] immediate ***families*** [~~family thereof~~] may loan any money, service, or other thing of value to ***their*** [~~his~~] campaign, and all [~~such~~] moneys, [~~or~~] services***, or other things of value which are loaned*** shall be deemed a contribution, which may not be recovered by the ***slate of candidates*** [~~candidate~~], except to the extent of a ***combined*** total of fifty thousand dollars ($50,000).

(17) No candidate, ***slate of candidates,*** committee, except a political issues committee, or contributing organization, nor anyone on ***their*** [~~his or its~~] behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(18) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(19) No candidate, slate of candidates, committee, nor anyone on their behalf, shall knowingly accept contributions from permanent committees in excess of thirty-five percent (35%) in the aggregate of the total contributions received per election.

(20) In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the thirty (30) days immediately preceding a primary or general election except as provided in subsection (5) of Section 3 of this Act. No candidate shall accept any contribution during the seven (7) days immediately preceding a primary or general election.

(21) No candidate, slate of candidates, or committee, nor anyone on their behalf, shall knowingly solicit votes, support, or a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation

of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

Section 27. KRS 121.160 is amended to read as follows:

(1) Each candidate ***or slate of candidates*** shall designate a campaign treasurer to act as ***their*** [~~his~~] agent at the time and at the office with which ***they file*** [~~he files~~] as a candidate ***or slate of candidates*** on a duplicate form prescribed and furnished by the ***commission*** [~~registry~~] and until this requirement is met the candidate ***or slate of candidates*** shall be listed as ***their*** [~~his~~] own treasurer and accountable as such. The candidate ***or slate of candidates*** may appoint ***themselves*** [~~himself~~] or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate ***or slate of candidates*** is required to file shall immediately forward to the ***commission*** [~~registry~~] the duplicate copy of the completed form designating the candidate's ***or slate's*** campaign treasurer and shall attach the original to the candidate's ***or slate's*** filing papers. The office with which the candidate ***or slate of candidates*** files shall promptly notify the ***commission*** [~~registry~~] when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds and deposit all contributions in that depository;

(b) Keep detailed and exact accounts of contributions in general and by name, address, age[~~,~~] if under legal voting age, and occupation [~~where the contribution exceeds three hundred dollars ($300)~~]; the occupation listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures on behalf of a candidate ***or slate of candidates***. Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address, and occupation of every person or firm to whom made, and shall list the date and amount of ***the*** [~~such~~] expenditure and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of four (4) years from the date he files his last report under KRS 121.180(2)(a); and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate ***or slate of candidates*** may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer, the candidate ***or slate of candidates*** shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, appoint a successor and shall file his name and address with the ***commission*** [~~registry~~]. The candidate***, or slate*** shall be accountable as ***their*** [~~his~~] own campaign treasurer if ***they fail*** [~~he fails~~] to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate ***or slate of candidates***, but all reports ***shall*** [~~must~~] be made separately for each individual candidate ***or slate***.

(6) The candidate ***or slate of candidates*** may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and ***shall*** [~~must~~] comply with the reporting provisions of KRS ***121.180*** [~~121.015 and 121.110 to 121.200~~] and ***administrative regulations promulgated*** [~~those adopted~~] by the ***commission*** [~~registry~~].

Section 28. KRS 121.170 is amended to read as follows:

(1) Any committee organized under any provisions of this chapter shall register with the ***commission*** [~~registry~~], by filing official notice of intention at the time of organization, giving names, [~~and~~] addresses, and positions of the officers of the organization and designating the candidate or candidates, ***slate of candidates,*** or question it is organized to support or oppose on forms prescribed by the ***commission*** [~~registry~~]. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the ***commission*** [~~registry~~] shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the ***commission*** [~~registry~~] shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) ***Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for elected office shall register with the commission when he raises in excess of three thousand dollars ($3,000) per election for the campaign committee by filing official notice giving his name, address, occupation, employer or, if he is self-employed, the name under which he is doing business, and all candidates or slates of candidates for whom he is soliciting on forms prescribed by the commission.***

(3) All provisions of KRS ***121.160*** [~~121.015 and 121.110 to 121.200~~] governing the duties and responsibilities of a candidate***, slate of candidates,*** or campaign treasurer shall apply to a registered committee ***and a person acting as a campaign fundraiser.***

(4)[~~(3)~~] The chairman of a committee and the campaign treasurer shall be separate persons.

Section 29. KRS 121.180 is amended to read as follows:

(1) State and county executive committees shall make a full report, upon a prescribed form, to the ***commission*** [~~registry~~], of all money, loans, or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing [~~in excess of three hundred dollars ($300)~~], the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of fifty dollars ($50), and the amount, date, and purpose of each expenditure. This report shall be made to the ***commission*** [~~registry~~] within thirty (30) days after the regular primary and general elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate ***or slate of candidates***, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the ***commission*** [~~registry~~] in the manner required by KRS 121.230. ***The*** [~~Such~~] separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(2) Each campaign treasurer of an opposed candidate ***or slate of candidates***, who receives or expends, expects to receive or expend, or contracts to expend more than three thousand dollars ($3,000), campaign committee, or political issues committee shall make a full report, upon a prescribed form, to the ***commission*** [~~registry~~], of all money, loans, or other things of value, received by him from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, and occupation of each person or group contributing [~~in excess of three hundred dollars ($300)~~], the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made, including "independent expenditures," as defined in KRS 121.150(1). The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of fifty dollars ($50), and the amount, date, and purpose of each expenditure. Reports of all candidates and their campaign ***committees*** [~~committee~~] shall be made as follows:

(a) Persons becoming candidates as defined in KRS 121.015(7) and campaign committees which register in the year before the year an election in which the person or persons supported are to be candidates occurs, shall file financial reports with the ***commission*** [~~registry~~] at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee, and each calendar quarter thereafter, ending with the last calendar quarter of that year. ***The*** [~~Such~~] candidates and committees shall make all reports required by this section during the year in which the election takes place;

(b) All candidates and their campaign committees shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates and their campaign committees shall make reports on the ***seventh*** [~~twelfth~~] day preceding the date of the election; and

(d) All reports to the ***commission*** [~~registry~~] shall be in the hands of the ***commission*** [~~registry~~] or postmarked ***not later than three (3)*** [~~within five (5)~~] days ***after*** [~~of~~] each filing deadline.

(3) (a) All candidates ***and slates of candidates***, regardless of funds received or expended, and their campaign ***committees*** [~~committee~~] shall make post-election reports within thirty (30) days after the election, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office.

(b) Unopposed candidates for nonpartisan judicial office shall not be required to make any reports when a primary election has not been held for that office, but shall make reports required by subsections (2) and (8) of this section for the regular election in November.

(4) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at ***the*** [~~such~~] events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above [~~exceeds one hundred dollars ($100)~~], the purchaser shall be identified by name, address, age, if less than the legal voting age, and occupation, and the amount purchased shall be reported to the ***commission*** [~~registry~~]. ***The*** [~~Such~~] lists shall be maintained by the campaign treasurer or other sponsor for inspection by the ***commission*** [~~registry~~] for four (4) years following the date of the election.

(5) Each permanent committee ***or contributing organization*** shall make a full report, upon a prescribed form, to the ***commission*** [~~registry~~] of all money, loans, or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, and occupation of each person or group contributing [~~in excess of three hundred dollars ($300)~~] and if in cash it shall be so stated.[~~, and~~] An aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures[~~,~~]" as defined in KRS 121.150(1). This report shall be made ***by a permanent committee*** to the ***commission*** [~~registry~~] on the last day of the first calendar quarter following the registration of the committee with the ***commmission*** [~~registry~~] and on the last day of each succeeding calendar quarter until such time as the committee terminates. ***A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the commission not later than the last day of each calendar quarter in which contributions are received or expenditures are made.***

(6) If the final statement of an opposed candidate ***or slate of candidates*** shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the ***commission*** [~~registry~~] a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements

shall be filed semiannually by opposed candidates ***and slates*** and annually by unopposed candidates ***and slates***, to be in the hands of the ***commission or*** [~~registry~~] postmarked within ten (10) days after April 15 and October 15 for opposed candidates ***or slates of candidates*** and October 15 for unopposed candidates ***or slates of candidates***, until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(7) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the ***commission*** [~~registry~~]. A duplicate copy of each report filed with the ***commission*** [~~registry~~] shall be filed by the candidate***, slate of candidates,*** or committee with the county clerk in the county in which the candidate ***or persons running as a slate of candidates reside*** [~~resides~~] at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(8) If a candidate ***or slate*** is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, ***they*** [~~he~~] shall not be required to file any pre-election reports required by ***this section*** [~~KRS 121.015 and 121.110 to 121.200~~]. The Secretary of State and each county clerk shall notify the ***commission*** [~~registry~~] of all unopposed candidates ***or slates*** within their filing jurisdiction ***not later than*** [~~within~~] ten (10) days ***after*** [~~of~~] the filing deadline.

(9) A candidate ***or slate of candidates*** is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate ***or slate*** states in writing or on forms provided by the ***commission*** [~~registry~~] that:

(a) Within five (5) days after personally receiving contributions in excess of three thousand dollars ($3,000), the candidate ***or slate of candidates*** shall surrender possession of the entire contribution or contributions to the treasurer of ***their*** [~~his~~] principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's ***or slated candidate's*** personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the ***campaign*** [~~political~~] committee and shall not be cashed or redeemed by the candidate;

(b) The candidate ***or slate of candidates*** shall not make any unreimbursed expenditure for his campaign, except that this paragraph does not preclude a candidate ***or slate*** from making an expenditure from personal funds to ***their*** [~~his~~] designated principal campaign committee, which expenditure shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate ***or slate of candidates*** complies with the conditions under which it was granted.

(10) No candidate***, slate of candidates,*** [~~as defined in this section, nor any~~] committee [~~as defined in this section~~], ***or contributing organization*** shall use or permit the use of contributions or funds solicited or received for ***the*** [~~such~~] person or in support of a public issue to further the candidacy of ***the*** [~~such~~] person for a different public office***,*** [~~or~~] to further a different public issue***, or to further the candidacy of any other person for public office***. Any funds or contributions solicited or received by or on behalf of a candidate***, slate of candidates,*** or any committee, which has been organized in whole or in part to further any candidacy for the same person, shall be deemed to have been solicited or received for the candidacy for which he is then a candidate if the funds or contributions are solicited or received at any time prior to the general election for which he is a nominee and for thirty days (30) thereafter. Any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, at the election of the candidate***, slate of candidates,*** or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the executive committee of the political party of which the candidate is a member except that a candidate, ***slate of candidates,*** committee, or an official may retain ***the*** [~~such~~] funds to further the same political issue or to seek election to the same office ***or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto***.

(11) Any publisher of newspapers or magazines, owner or lessor of billboards, a radio or television station or network, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material and any purchaser of advertising services or material shall file with the commission a copy of the material or communication purchased by any person to support or oppose any slate of candidates or committee and a copy of the receipt for the funds paid, and shall identify for the commission the person purchasing the services or material, and the source of the funds used to make the purchase if different than the purchaser. The information shall be reported to the commission not more than thirty (30) days after receiving the initial advertising or communications purchase for an election and every thirty (30) days thereafter if purchases are made in the ensuing period; except that reports of purchases shall be made to the commission every fourteen (14) days during the fifty-six (56) days before the primary and general elections for Governor and Lieutenant Governor. The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

Section 30. KRS 121.220 is amended to read as follows:

(1) Each candidate, ***slate of candidates,*** and each committee shall, before receiving any contributions or expending any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate, ***slate of candidates,*** or committee. The candidate, ***slate of candidates,*** or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate, ***slate of candidates,*** or committee participates. Deputy campaign treasurers may make expenditures from secondary depositories but only from moneys which first have been deposited in the primary campaign depository. Only a financial institution authorized to transact business in Kentucky may be designated as a campaign depository. The candidate, ***slate of candidates,*** or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate, ***slate of candidates,*** or committee files the name of his or its campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate, ***slate of candidates,*** or committee shall be deposited prior to the end of the fifth business day following their receipt in a campaign depository in an account designated "Campaign Fund of (name of candidate, ***slate of candidates,*** or committee)." ***For each deposit, the campaign treasurer or deputy campaign treasurer shall retain*** a statement showing the full name, address, and occupation of each contributor [~~of more than three hundred dollars ($300)~~] shall be deposited together with a statement of the amount received. Cash contributions shall be accompanied by the same receipt form.

Section 31. KRS 121.990 is amended to read as follows:

(1) Any ***corporation or any officer, agent, attorney, or employee of a*** [~~public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such~~] corporation, who ***knowingly*** [~~willfully~~] violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be ***guilty of a Class D felony*** [~~imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year~~].

(2) [~~Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.~~

~~(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of~~

~~KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.~~

~~(4)~~] Any attorney who ***knowingly*** [~~willfully~~] violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1) ***and (4)***[~~, (2), (3) and (7)~~] of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.

(3)[~~(5)~~] Any corporation that ***knowingly*** [~~willfully~~] violates any of the provisions of subsection (1) of KRS 121.035***(1) or KRS 121.310(2)*** shall be fined not [~~less than five hundred dollars ($500) nor~~] more than ***ten*** [~~five~~] thousand dollars ***($10,000)*** [~~($5,000)~~] for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(4)[~~(6)~~] Any person who ***knowingly*** [~~willfully~~] violates any of the provisions of [~~subsection (2) of~~] KRS 121.035***(2), 121.045, 121.055, 121.150 to 121.230, 121.310(1), 121.320, or KRS Chapter 121A,*** shall, for each offense, be ***guilty of a Class D felony*** [~~fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.~~

~~(7) Any person who willfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.~~

~~(8) Any person who willfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.~~

~~(9) Any person who willfully violates any provision of KRS 121.110 to 121.200 shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both~~]. Violations ***of KRS 121.150 to 121.230 or KRS Chapter 121A*** shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication to support or defeat a candidate ***or slate of candidates*** without identification of sponsorship.

(5)[~~(10)~~] The nomination for, or election to, an office of any candidate ***or slate of candidates*** who ***knowingly*** [~~willfully~~] violates any provision of KRS ***121.150 to 121.220 or KRS Chapter 121A*** [~~121.110 to 121.200~~], or whose campaign treasurer ***knowingly*** [~~willfully~~] violates any provision of KRS ***121.150 to 121.220 or KRS Chapter 121A*** [~~121.110 to 121.200~~], with ***the knowledge of that candidate or slate of candidates*** [~~such candidate's knowledge~~], shall be void, ***and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve,*** and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the ***commission*** [~~registry~~], the Attorney General, [~~or~~] any candidate ***or slate of candidates*** for the office sought to be declared vacant, or any qualified voter.

(6)[~~(11)~~] The Attorney General, Commonwealth's attorney, the ***commission*** [~~registry~~], or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS ***121.056 and KRS 121.120*** [~~121.110~~] to ***121.230 and KRS Chapter 121A*** [~~121.200~~].

(7)[~~(12)~~] The Commonwealth's attorney for the county in which the candidate ***or slated candidates reside*** [~~resides~~] shall be the chief prosecutor upon receipt of a written request from the ***commission*** [~~registry~~], shall prosecute any violator under this chapter ***or KRS Chapter 121A***, and in the event he fails or refuses to prosecute a violator, upon written request from the ***commission*** [~~registry~~], the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(8)[~~(13)~~] Any officeholder who ***knowingly*** [~~willfully~~] violates the provisions of KRS 121.150(11) shall, ***upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve*** [~~be subject to removal from office by impeachment~~].

(9)[~~(14)~~] Prosecution for violation of any provision of this chapter ***or KRS Chapter 121A*** shall not be commenced after four (4) years have elapsed from the date of the violation. ***If*** [~~In the event~~] the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

[~~(15) Any person who willfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.~~

~~(16) Any corporation that willfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.~~

~~(17) Any person who willfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.~~]

(10)[~~(18)~~] ***Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.***

(11) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(12) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(13) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(14) Any person who ***knowingly*** violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(15)[~~(19)~~] Any person who ***knowingly*** fails to pay a civil penalty, assessed by the ***commission or a judicial panel pursuant to KRS 121.140*** [~~registry~~] for violation of campaign finance laws, shall be disqualified from filing for public office [~~until such penalty is paid or the registry rules that settlement has otherwise been made~~].

(16) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of subsection (1) of Section 17 of this Act shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(17) Any entity who knowingly receives a nonbid contract with a governing authority in violation of subsection (2) of Section 17 of this Act shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(18) Any elected official who knowingly awards or participates in awarding of an nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of subsection (3) of Section 17 of this Act shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(19) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of subsection (4) of Section 17 of this Act shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of subsection (4) of Section 17 of this Act shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(20) Any appointed or elected stateoffice holder or any other person who knowingly violates the provisions of KRS 121.120(4) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

Section 32. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party at the time of the preceding regular election, or, in the case of new registrations not involving a change of political affiliation made after the preceding regular election, have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates ***or slates of candidates*** other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. ***Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.***

Section 33. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot and all applications for an absentee ballot shall be transmitted only by mail or in person as specifically provided by this section. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no absentee ballots shall be mailed to an address within the county except to those voters who regularly work outside the county during all hours the office of the county clerk is open. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application. Application for an absentee ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the crime may, at any time not less than the close of normal business hours seven (7) days before the election, make application in person or by mail to the county clerk for an absentee ballot. All requests for an application for an absentee ballot and all applications for an absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to the voter who appears in person to request the application, or shall mail the application to a voter who requests the application by mail. The application shall be restricted to use of the voter or the spouse, parents, or children of the voter;

(b) Residents of Kentucky who are members of the armed forces, [~~or~~] dependents of members of the armed forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt; and

(c) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote by absentee ballot. The application form for those persons shall be prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~] and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. The applications shall be restricted to the use of the voter only.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~], shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in ***the*** [~~said~~] precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of ***the*** [~~such~~] ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election ***and ten (10) days prior to each runoff primary.***

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number, and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received an absentee ballot but who knows at least seven (7) days before the date of the election that he ***will*** [~~shall~~] be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 34. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any precinct, any candidate ***or slate of candidates*** and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection ***(7)***[~~(6)~~] of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:

(a) That the voting equipment has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.

(3) Where voting equipment is used which does not print the candidates' names, lever numbers, and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate ***or slate of candidates*** and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed,

shall be signed by the election officers. The total votes cast for each candidate, ***and slate of candidates,*** and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, ***and slate of candidates,*** and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment, and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.

(4) If any officer shall decline to sign the return, he shall state his reason in writing, and a copy thereof, signed by him, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the ***Kentucky Election Commission*** [~~State Board of Elections~~] and the county clerk shall mail or deliver the precinct lists from each precinct to the ***commission*** [~~State Board of Elections~~].

(5) ***In primary elections at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making his determination, inform the affected slates of candidates, the county boards of elections, the Kentucky Election Commission, and the news media of his determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.***

(6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(7)[~~(6)~~] In primary elections, each candidate, ***slate of candidates,*** or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(8)[~~(7)~~] If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates, ***slates of candidates,*** or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 35. KRS 117.295 is amended to read as follows:

(1) For a period of ***ten (10)*** [~~fifteen (15)~~] days following any primary election, and for a period of thirty (30) days following any general or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of ***a voting*** [~~such~~] machine, and ***all the*** [~~such~~] data and [~~such~~] figures shall be examined by ***the*** [~~such~~] court, judge or committee in the presence of the officer having the custody of ***the*** [~~such~~] machine. In the event of a contest of election the court in which ***the*** [~~such~~] contest is pending or the committee before which ***the*** [~~said~~] contest is being heard may upon motion of any party to ***the*** [~~said~~] contest issue an order requiring that ***the*** [~~said~~] voting machines shall remain continuously locked for [~~such~~] further time as may be reasonable or necessary, with due regard for the preparation of ***the*** [~~said~~] machines for a succeeding primary, ***runoff primary,*** general, or special election, but in no event shall ***the*** [~~such~~] order compel that ***the*** [~~said~~] machines remain locked to a time within thirty (30) days next preceding any [~~such~~] approaching primary, ***runoff primary,*** general, or special election.

(2) During the period when ***the*** [~~such~~] machine is required to be kept locked the keys thereto shall remain in the possession of the county board of ***elections*** [~~election commissioners~~]. After ***that*** [~~such~~] period it shall be the duty of the county board of ***elections*** [~~election commissioners~~] to return ***the*** [~~such~~] keys to the custody of the county clerk.

Section 36. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, [~~and~~] primary***, and runoff primary*** elections shall apply to elections conducted with the use of voting machines, and all provisions of ***the general*** [~~such~~] laws ***applying*** [~~with respect~~] to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates ***or slates of candidates*** to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) ***A runoff primary shall be held twenty-eight (28) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the twenty-eighth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday.*** The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 37. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate ***or slate of candidates*** for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups***, slates of candidates,*** or

lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

(a) Not less than ninety-eight (98) days before a primary;

(b) ***Not less than nineteen (19) days before a runoff primary;***

(c) Not less than seventy-seven (77) days before a general election, the certification to include only candidates to federal office; and

(d)[~~(c)~~] Not less than seventy-seven (77) days before a general election, the certification to include all candidates ***and slates of candidates*** except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates ***or slates of candidates*** whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates ***or slates of candidates*** shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate ***or slate of candidates*** who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate ***or slate of candidates*** who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates ***or slates of candidates*** cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the ***Kentucky Election Commission*** [~~State Board of Elections~~] not less than eighty-eight (88) days before the primary or sixty-five (65) days before the general election. The ***commission*** [~~State Board of Elections~~] shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the ***commission*** [~~State Board of Elections~~], supplemental paper ballots may be used for nonpartisan candidates ***or slates of candidates*** for an office or offices and public questions submitted for a yes or no vote. All candidates ***or slates of candidates*** for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate ***or slate of candidates*** shall not be changed after the ballot position has been designated by the county clerk.

Section 38. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates ***or slates of candidates*** to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates ***or slates of candidates*** for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, one hundred sixteen (116) days before the primary***, twenty (20) days before a runoff primary,*** or eighty-eight (88) days before the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, one hundred sixteen (116) days before the primary or eighty-eight (88) days before the general election.

(4) If the number of certified candidates ***or slates of candidates*** cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the ***Kentucky Election Commission*** [~~State Board of Elections~~], as provided in KRS 118.215.

Section 39. KRS 118.245 is amended to read as follows:

(1) The candidate ***for office, other than the offices of Governor and Lieutenant Governor,*** receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination.

(2) A slate of candidates for Governor and Lieutenant Governor that receives not less than forty percent (40%) of its party's votes cast shall be the nominee of its party for those offices and that slate of candidates shall receive the certificate of nomination; except that if two (2) slates of candidates receive forty percent (40%) or more of their party's votes, the slate receiving the higher number of votes shall be its party's nominee, and no runoff primary shall be conducted.

(3) A slate of candidates for Governor and Lieutenant Governor that receives the highest number of its party's votes but which number is less than forty percent (40%) of the votes cast for all slates of candidates of that party, shall be required to participate in a runoff primary with the slate of candidates of the same party receiving the second highest number of votes.

(4) The slate of candidates receiving the highest number of votes in a runoff primary shall be the nominees of that party for Governor and Lieutenant Governor, and that slate of candidates shall receive the certificate of nomination.

(5) Subject to the foregoing provisions relating to a runoff primary, if two (2) or more ***slates of candidates in a runoff primary or primary election*** [~~persons~~] are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in ***the*** [~~such~~] manner [~~as~~] the ***Kentucky Election Commission*** [~~board~~] directs, in the presence of not less than three (3) other persons. This section does not apply to presidential primaries.

Section 40. KRS 120.055 is amended to read as follows:

Any candidate ***or slate of candidates*** for nomination to office at a primary election held under the provisions of KRS 118.015 to 118.035 and 118.105 to 118.255, or any candidate for nomination to a city office at a primary election for which the statutes do not otherwise provide for determining contest elections, for whom a number of votes was cast equal to not less than fifty percent (50%) of the votes cast for the successful candidate ***or slate of candidates*** for nomination to ***the*** [~~such~~] office, may contest the right of the successful candidate ***or slate of candidates,*** and of any other candidate ***or slate of candidates*** for nomination to ***the*** [~~such~~] office, to ***the*** [~~such~~] nomination, by filing a petition in the Circuit Court within ***ten (10)*** [~~fifteen (15)~~] days from the day of the primary election, stating the specific grounds relied upon for the contest, and causing a summons to be issued, returnable in ***seven (7)*** [~~ten (10)~~] days. In the case of candidates ***or slates of candidates*** for offices for the state at large, the petition shall be filed in the Franklin Circuit Court; in the case of other candidates it shall be filed in the Circuit Court of the county in which the contestee resides. The summons may be personally served on the contestee in any county, or it may be served by leaving a copy at his home with a member of his family over sixteen (16) years of age, or by posting a copy on the door of his residence. The contestee shall file his answer within ***seven (7)*** [~~ten (10)~~] days after service of summons. The answer may contain grounds of contest in favor of the contestee and against the contestant, but the grounds ***shall*** [~~must~~] be specifically set out. Any candidate ***or slate of candidates*** who would have been qualified to bring a contest action under this section, who is a party to a recount proceeding brought under KRS 120.095, may, by filing an answer in the recount proceeding within the time allowed by this section for filing grounds of contest, set forth grounds of contest against the petitioner in the recount proceeding. No ground of contest by either party shall be filed or made more definite by amendment after the expiration of the time allowed by this section for filing the original pleading. The contestant may file a reply within five (5) days after answer is filed, which shall complete the pleading, and any affirmative matter in the reply shall be treated as controverted. Upon return of the summons, properly executed, to the office of the circuit clerk of the county in which the action is pending, the clerk shall immediately docket the cause and notify the presiding judge of the court that the contest has been instituted, and the judge shall proceed to a trial of the cause within five (5) days after the issue was joined. In judicial circuits having more than one (1) circuit judge the judge who shall hear the cause shall be determined by lot.

Section 41. KRS 120.095 is amended to read as follows:

(1) Any candidate ***or slate of candidates*** [~~who was~~] voted for at a primary election held under KRS 118.015 to 118.035 and 118.105 to 118.255 may request a recount of the ballots by filing a petition [~~so requesting,~~] with the same court that contest petitions are required to be filed with, within ***ten (10)*** [~~fifteen (15)~~] days after the day of the primary election, or, if ***the*** [~~such~~] candidate ***or slate of candidates*** is qualified to bring a contest proceeding under KRS 120.055, by including a request for a recount in his petition instituting the contest proceedings.[~~, and~~] Any candidate ***or slate of candidates that*** [~~who~~] is a contestee in a contest proceeding under KRS 120.055 may request a recount in his answer filed in the contest proceeding, but in ***that*** [~~such~~] case the answer ***shall*** [~~must~~] be filed within five (5) days after the service of process on the petition. When a request for a recount is made, the ***Kentucky Election Commission or the county board of elections, whichever would issue the certificate of nomination,*** [~~election commissioners whose duty it is to issue certificates~~] shall be made ***a party*** [~~parties~~] defendant. The party requesting the recount ***shall*** [~~must~~] execute ***a*** bond with approved surety for the costs of the recount, in an amount to be fixed by the circuit judge. Upon the bond being filed, the clerk shall immediately notify the circuit judge of the request and the filing of the bond, and the judge shall at once enter an order directing custody of the voting machines, the ballots, boxes and all papers pertaining to the election to be transferred to the Circuit Court, and fix a day for the recount proceedings to begin. A copy of the order shall be served upon the parties or their counsel in the same manner as notices are required to be served, which shall be deemed sufficient notice of the proceeding. On the day fixed, the court shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and file and enter of record the results thereof, and direct the ***commission or county board, whichever would issue the certificate of nomination,*** [~~election commissioners whose duty it is to issue the certificates~~] to issue ***a certificate*** [~~the same~~] to the party entitled thereto as shown by the recount.

(2) Any party may appeal from the judgment to the Court of Appeals, in the same manner as provided in KRS 120.075, all of the provisions of which statute shall be applicable.

(3) If a proceeding for recount is asked and prosecuted in a contest proceeding, it shall not await the preparation or trial of the contest in the Circuit Court or in the Court of Appeals. The action of the courts shall be final, concluding the parties as to the question of a recount of the ballots, and certificates shall then be issued to the parties entitled thereto.

Section 42. KRS 117.015 is amended to read as follows:

(1) There ***is created as an independent agency of state government in the Department of State the Kentucky Election Commission which shall administer the election and campaign finance laws of the state and supervise registration and purgation of voters within the state. The Secretary of State shall serve as the chief election official for the Commonwealth, but shall not exercise any authority over the functions, personnel, funds, equipment, facilities, or records of the Kentucky Election Commission, pursuant to KRS 12.020*** [~~shall be a State Board of Elections which shall administer the election laws of the state and supervise registration and purgation of voters within the state. The board may adopt administrative regulations necessary to properly carry out its duties~~].

(2) The ***commission shall consist of seven (7) members to be appointed by the Governor as provided in subsection (3) of this section. Appointees shall be subject to confirmation by the Senate at the next regular session of the General Assembly following their appointment, or at the next special session if included in the Governor's call. Appointees shall have full power to serve until any vote of nonconfirmation. A member of the commission shall be at least twenty-five (25) years of age; be a registered voter in Kentucky; not be an elected or appointed officer or employee in the executive, legislative, or judicial branch of Kentucky state government, nor an elected or appointed officer or employee of any local government, nor the spouse, parent, or child of an elected or appointed officer or employee; not be an announced candidate for public office nor the spouse, parent, or child of an announced candidate for public office nor shall have been a candidate for public office for two (2) years prior to his appointment; not have been convicted of any knowing violation of election or campaign finance law; and not hold any nonbid contract with the Commonwealth, either personally or through any business entity in which the member has any financial interest. Notwithstanding the above-enumerated qualifications and the nomination procedures set forth in subsection (3) of this section, any existing member of the State Board of Elections or the Registry of Election Finance shall be subject to appointment to the commission*** [~~board shall consist of the Secretary of State and six (6) members to be appointed by the Governor as provided in this subsection. The Secretary of State shall serve as the chairman of the state board and the chief election official for the Commonwealth. The members shall serve for a term of four (4) years or until their successors are appointed. Members shall be at least twenty-five (25) years of age and qualified voters of this state. No appointed member shall be a candidate for public office, have been a candidate for public office for two (2) years prior to his appointment, or have been convicted of any election law offense. Two (2) members shall be appointed by the Governor from a separate list of at least five (5) names submitted by the state central executive committee of each of the two (2) political parties that polled the largest vote in the last preceding election for state officials. The list shall be submitted to the Governor by February 15 of 1992, and the appointments of the Governor shall be made by April 1 of the same year. Two (2) separate lists shall be submitted to the Governor by August 15 of 1990 and every four (4) years thereafter, and two (2) appointments shall be made from these lists by September 15 of each year in which the lists are received. Vacancies shall be filled in the same manner as provided for original appointments, and the person appointed to fill the vacancy shall be of the same political party as his predecessor~~].

(3) The ***state central executive committee of each of the two (2) political parties that polled the largest and second largest vote at the last gubernatorial election shall, not later than May 15, 1992, submit to the Governor a separate list of three (3) nominees who shall be members of the political party submitting the list for each member of the commission to be appointed. The Governor shall make the initial appointments to the commission not later than June 15, 1992, from the nominations submitted by the political parties, and the appointees shall take office July 1, 1992, and shall serve until their successors are appointed and qualified. Of the initial appointments to the commission, one (1) member shall serve for a term of one (1) year; two (2) members, one (1) from each political party, shall serve for a term of two (2) years; two (2) members, one (1) from each political party, shall serve for a term of three (3) years; and two (2) members, one (1) from each political party, shall serve for a term of four (4) years. The political parties shall each***

submit a list of three (3) nominees for each approaching vacancy to the Governor by May 15 of each year in which a member's term shall expire and the Governor shall, by June 15 of that year, appoint a successor for each vacancy, who shall take office on July 1 and shall serve for a term of four (4) years or until his successor is appointed and qualified. A person appointed to fill a vacancy shall be of the same political party as his predecessor, but at no time shall more than four (4) persons affiliated with the same political party serve as members of the commission. If a member vacates his office prior to the expiration of his term, the political party which the member represented on the commission shall submit three (3) nominees to the Governor not later than thirty (30) days after the vacancy is created and the Governor shall appoint a successor from the list of nominees not later than two (2) weeks thereafter to serve for the remainder of the vacating member's term. If a political party fails to submit nominees for commission members as required by this subsection, it shall forfeit its right to make nominations for commission members, and the Governor shall appoint members of his choice from the registered voters of that political party to represent the political party on the commission [~~board shall meet as often as necessary to carry out its duties and shall keep a record of its acts, orders, findings, and proceedings. A majority of the board shall constitute a quorum. The Secretary of State shall preside at the meetings and may vote~~].

(4) ***At the first meeting of the commission, the members shall elect a chairman and a vice chairman from among their membership to serve for a term of one (1) year. The chairman and vice chairman shall represent different political parties. No member shall serve as chairman for more than one (1) year of his appointed term. The chairman shall preside at all meetings of the commission and shall have all the powers and privileges of the other members.***

(5) The commission shall fix the place and time of its regular meetings by order duly recorded in its minutes. The commission shall take no action without a quorum of four (4) members present. The commission shall keep a record of its acts, orders, findings, and proceedings. Special meetings shall be called by the chairman on the written request of three (3) members or the chairman may call a special meeting on his own initiative. The chairman shall give members notice of any special meeting by mail, telephone, or electronic facsimile transmission not less than twenty-four (24) hours prior to the time scheduled for a special meeting, and the notice shall specify the purpose, time, and place of the meeting, and no other matters may be considered, without a specific waiver of all the members.

(6) The members of the commission shall each receive two hundred fifty dollars ($250) for each day they shall meet and shall be reimbursed for all reasonable and necessary expenses [~~The members of the board shall be paid a reasonable sum to be fixed by the commissioner of personnel, with the approval of the secretary of the Finance and Administration Cabinet, and in addition, their expenses in attending board meetings. The compensation shall be paid out of the State Treasury upon requisition signed by the chairman of the board and approved by the secretary of the Finance and Administration Cabinet~~].

Section 43. KRS 117.025 is amended to read as follows:

(1) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall appoint an executive director, who shall be the chief administrative officer for the ***commission*** [~~board~~]. The ***commission*** [~~board~~] shall also appoint an assistant to the ***executive*** director, who shall be of a different political party than the ***executive*** director. The salaries of the ***executive*** director and his assistant shall be set by the ***commission and they shall serve at the pleasure of the commission*** [~~board~~].

(2) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the ***commission*** [~~board~~], including legal counsel***, accountants, and investigators,*** as deemed necessary by the ***commission*** [~~board~~]. ***All requests for personnel appointments shall be forwarded by the commission directly to the commissioner of the Department of Personnel and shall be subject to his review and certification only.***

(3) ***In addition to the duties specified in KRS 121.120 and KRS Chapter 121A regarding the enforcement of the campaign finance laws,*** the ***commission*** [~~board~~] shall:

(a) Maintain a complete roster of all qualified registered voters within the state by county and precinct;

(b) For each primary election, furnish each county clerk with a master list of all registered voters in the county, together with three (3) signature rosters of all registered voters in each precinct of the county according to party affiliation, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each primary election;

(c) For each regular election, furnish each county clerk with a master list of all registered voters in the county, together with one (1) signature roster of all registered voters in each precinct of the county on which each voter's party affiliation is identified, and two (2) lists of all registered voters in each precinct of the county at least five (5) days prior to each regular election;

(d) Maintain all information furnished to the ***commission*** [~~board~~] relating to the inclusion or deletion of names from the rosters for four (4) years;

(e) Furnish, at a reasonable price, the state central executive committee of each political party qualifying under KRS 118.015 monthly data of all additions, deletions, and changes of registration in each precinct of each county and the state central executive committee shall furnish a county listing to each of the county executive committees of each political party;

(f) Purchase, lease, or contract for the use of equipment necessary to properly carry out its duties under the provisions of this chapter and KRS Chapters 116, [~~and~~] 118***, 120, 121, and 121A***;

(g) Secure information from any source which may assist the ***commission*** [~~board~~] in carrying out the purposes of this section;

(h) Furnish at a reasonable price any and all precinct lists to duly qualified candidates ***or slates of candidates***, political party committees or officials thereof, or any committee that advocates or opposes an amendment or public question ***which will appear on the ballot***. The ***commission*** [~~State Board of Elections~~] may also furnish the precinct lists to other persons at the ***commission's*** [~~board's~~] discretion, at a reasonable price. The ***commission*** [~~board~~] shall not furnish precinct lists to persons who intend to use the lists for commercial use.

(4) The Kentucky Election Commission may promulgate administrative regulations necessary to properly carry out its duties.

Section 44. KRS 121.120 is amended to read as follows:

(1) The ***commission may:***

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the commission may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman or the vice chairman, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the commission and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the commission to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under Section 45 of this Act;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities; and

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the commission. Any failure to obey the order of the court may be punished by the court as contempt.

(2) No person shall be subject to civil liability to any person other than the commission or the Commonwealth for disclosing information at the request of the commission [~~registry shall appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry shall also appoint such other employees as are necessary to carry out the purposes of this chapter.~~

~~(2) The registry may conduct hearings with regard to possible violations and for the effective carrying out of its responsibilities the registry shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this chapter or enjoining violations thereof or recovering any penalty prescribed by this chapter~~].

(3) The ***commission*** [~~registry~~] shall adopt [~~such regulations,~~] official forms and perform ***other*** [~~such~~] duties [~~as are~~] necessary to implement the provisions of ***this chapter and KRS Chapter 121A*** [~~KRS 121.015 and 121.110 to 121.200~~]. Without limiting the generality of the foregoing, the ***commission*** [~~registry~~] shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, ***slates of candidates,*** and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, [~~and~~] requirements as to reporting dates, and the length of time that candidates, ***slates of candidates,*** and committees are required to keep any records pursuant to the provisions of this chapter ***and KRS Chapter 121A***;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of ***them*** [~~the same~~];

(e) Preserve all reports for at least four (4) years from the date of receipt;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, ***slates of candidates, committees, contributing organizations,*** and parties, containing the total receipts and expenditures, and the date, name, address, [~~and~~] occupation, and amount contributed by each contributor, listed alphabetically, shown to have contributed in excess of ***one*** [~~three~~] hundred dollars ***($100)*** [~~($300)~~];

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter ***and KRS Chapter 121A***; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140[~~(2)~~]; ***and*** make public the fact that a violation has occurred and the nature thereof;

(j) [~~Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of any books, papers, correspondence, memorandums or other records and the attendance of witnesses which the registry deems relevant or material for the purpose of any investigation;~~

~~(k)~~] Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, ***charter county government,*** and district offices. When the ***commission*** [~~registry~~] audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, ***charter county government,*** or district office;

(k)[~~(l)~~] Conduct audits of receipts and expenditures of all candidates ***or slates of candidates*** running for statewide office;

(l)[~~(m)~~] Require that candidates ***and slates of candidates*** shall maintain their records for a period of four (4) years from the date of the general election in their respective political races;

(m)[~~(n)~~] Initiate investigations and make investigations with respect to reports upon complaint by any ***person*** [~~registered voter~~] and [~~to~~] initiate proceedings on its own motion; [~~and~~]

(n)[~~(o)~~] Forward to the Attorney General any violations of this chapter ***and KRS Chapter 121A*** which may become the subject of civil ***or criminal*** prosecution***; and***

(o) Direct and administer the provisions of KRS Chapter 121A.

(4) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the commission. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any commission member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the office holder or person. Commission members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

SECTION 45. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any person may file a written request with the commission for an advisory opinion concerning the application of the provisions of this chapter or any administrative regulation promulgated by the commission with respect to a specific transaction or activity by the person. The commission shall render a written advisory opinion relating to the specific transaction or activity to the person making the request not later than thirty (30) days after the commission receives the request.

(2) If a candidate, slate of candidates, or either of their campaign committees files a written request with the commission for an advisory opinion not more than thirty (30) days before the date of an election at which the candidate or slate of candidates shall appear on the ballot, the commission shall render a

written advisory opinion relating to the request not later than twenty (20) days after the commission receives a complete request.

(3) No advisory opinion shall be issued by the commission or any of its employees except in accordance with the provisions of this section.

(4) (a) Any advisory opinion rendered by the commission under subsections (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person or committee to whom a written advisory opinion has been rendered who relies upon any provision or finding of the advisory opinion and who acts in good faith in accordance with the provisions and findings of the advisory opinion shall not, as a result of any act with respect to a transaction or activity addressed by the advisory opinion, be subject to any sanction provided by this chapter or any administrative regulation promulgated by the commission.

(c) It shall be no defense in any civil or criminal proceeding regarding a violation of any provision of this chapter or any administrative regulation promulgated by the commission for a person or committee to claim that he relied upon and acted in good faith based upon any provision or finding of an advisory opinion if the person or committee was not the party requesting the advisory opinion and to whom it was rendered.

(5) (a) The commission shall make public all written requests for an advisory opinion made under subsection (1) or (2) of this section. Before rendering an advisory opinion, the commission shall accept written comments submitted by any interested party within the ten (10) day period following the date the request is made public.

(b) The commission shall make public all advisory opinions rendered under subsection (1) or (2) of this section.

Section 46. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the ***commission*** [~~registry~~] shall investigate alleged violations of campaign finance law. ***In conducting any investigation, the commission shall have the power of subpoena and may compel production of evidence including the financial records of any person determined by the commission to be vital to the investigation. The records subject to subpoena include, but are not limited to, a person's bank records and other relevant documents, but excluding individual and business income tax records.***

(2) ***If*** [~~When~~] the ***commission*** [~~registry~~] concludes that there is probable cause to believe that the law has been violated, ***the commission shall notify the alleged violator of its conclusions and the evidence supporting them, and shall offer the alleged violator a conciliation agreement to resolve the issue. A conciliation agreement may require the alleged violator to comply with one (1) or more of the following:***

(a) To cease and desist violations of the law;

(b) To file required reports or other documents or information; or

(c) To pay a civil fine of not more than five thousand dollars ($5,000).

(3) To accept a conciliation agreement, an alleged violator shall deliver the signed agreement to the commission either in person or by mail postmarked not later than ten (10) days after the day he received it. The commission may institute a civil action in Franklin Circuit Court or the Circuit Court for the county

of the violator's residence to enforce the provisions of any conciliation agreement accepted by a violator who is not complying with its provisions.

(4) If the alleged violator declines to accept the conciliation agreement or fails to respond within the time allowed, [~~it may hold~~] a hearing ***before a panel of three (3) active or retired Justices or Judges of the Court of Justice appointed by the Chief Justice of the Supreme Court shall be held in accordance with the Kentucky Rules of Civil Procedure*** to determine if ***a*** [~~such~~] violation has occurred. [~~In such event,~~] The ***commission*** [~~registry~~] shall notify the complainant and the ***alleged violator*** [~~person complained against~~] that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. [~~If a hearing is held, the person complained against may choose whether the hearing shall be open or closed.~~] At the hearing, ***which shall be open to the public pursuant to KRS 61.810, the attorney for the commission shall present the evidence against the alleged violator and the alleged violator*** [~~the person complained against~~] shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross-examine opposing witnesses. ***The panel shall conclude its proceedings and render a decision not more than sixty (60) days after the date on which the panel was appointed to conduct a hearing. If*** [~~When~~] the ***panel*** [~~registry~~] determines that the preponderance of the evidence shows a violation has occurred, it shall issue an order***, which shall be appealable to the Court of Appeals within thirty (30) days after the date of the order,*** to the violator to comply with any one (1) or more of the following requirements:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this law;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of ***five*** [~~one~~] thousand dollars ***($5,000)*** [~~($1,000)~~], for failure to file any report or other document or information required by law until such report, document or information is filed, provided there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed ***five thousand dollars ($5,000)*** [~~one hundred dollars ($100)~~] per violation for acts of noncompliance with provisions contained within this chapter[~~, except violations of KRS 121.150(2) and reporting requirements contained within this chapter~~]. ***An appeal of an order of the panel shall be advanced on the docket to permit a timely decision.***

(5)[~~(3)~~] If the ***commission*** [~~registry~~] concludes that there is probable cause to believe that the campaign finance law has been violated ***knowingly*** [~~wilfully~~], it shall refer ***the*** [~~such~~] violation to the Attorney General for prosecution. The Attorney General may request the ***commission's*** [~~registry's~~] attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the ***commission*** [~~registry~~] all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the ***commission*** [~~registry~~] may petition the Circuit Court to appoint the ***commission's*** [~~registry's~~] attorney to prosecute, and upon ***a*** [~~such~~] motion ***timely filed,*** for good cause shown, the court shall enter an order to that effect. Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court ***or in the Circuit Court for the county in which the contribution or expenditure constituting a campaign finance violation was solicited, made, or accepted. The prosecution of a person who unlawfully solicits, makes, or accepts a contribution or expenditure through the use of the mail may be conducted in the Circuit Court for the county in which the solicitation is mailed, the county in which the contribution is mailed or received, or the county in which the expenditure is mailed.***

(6)[~~(4)~~] Any person directly involved or affected by an action of the ***commission or the panel*** [~~registry~~] which is final, other than of a determination to refer a violation to the Attorney General for prosecution, may seek judicial review of ***the*** [~~such~~] action ***within thirty (30) days after the date of the action.***

(7)[~~(5)~~] If judicial review is sought of any action of the ***commission of the panel*** [~~registry~~] relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

Section 47. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order***; except***[~~, provided, however,~~] in the case of the Personnel Board[~~,~~] and where the attached department or administrative body is headed by a constitutionally elected officer, ***the*** [~~such~~] attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

   (a) Secretary of State.

   (b) ***Kentucky Election Commission*** [~~Board of Elections~~].

4. Department of Law.

   (a) Attorney General.

5. Department of the Treasury.

   (a) Treasurer.

6. Department of Agriculture.

   (a) Commissioner of Agriculture.

   (b) Kentucky Council on Agriculture.

7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

    (a) Department of State Police.

    (b) Department of Criminal Justice Training.

    (c) Office of Administration.

2. Education and Humanities Cabinet:

    (a) Department of Education.

        (1) State Board for Elementary and Secondary Education.

        (2) Education Professional Standards Board.

    (b) Department for Libraries and Archives.

    (c) Kentucky Educational Television.

    (d) Kentucky Historical Society.

    (e) Kentucky Teachers' Retirement System Board of Trustees.

3. Natural Resources and Environmental Protection Cabinet:

    (a) Environmental Quality Commission.

    (b) Kentucky Nature Preserves Commission.

    (c) Department for Environmental Protection.

    (d) Department for Natural Resources.

    (e) Department for Surface Mining Reclamation and Enforcement.

    (f) Department of Law.

    (g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

    (a) Department of Highways.

    (b) Department of Vehicle Regulation.

    (c) Department of Administrative Services.

    (d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department for Existing Business and Industry.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

(f) Office of Industrial Development.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) [~~Registry of Election Finance.~~

~~(k)~~] Board of Claims.

(k)[~~(l)~~] Crime Victims Compensation Board.

(l)[~~(m)~~] Kentucky Board of Tax Appeals.

(m)[~~(n)~~] Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management and Fiscal Affairs.

(c) Office of Historic Properties.

(d) Office of Financial Management and Economic Analysis.

(e) Office of Risk Management.

(f) Department for Administration.

(g) Department of Facilities Management.

(h) Department of Information Systems.

(i) State Property and Buildings Commission.

(j) Kentucky Pollution Abatement Authority.

(k) Kentucky Savings Bond Authority.

(l) Deferred Compensation Systems.

(m) Office of Equal Employment Opportunity Contract Compliance.

(n) Capital Plaza Authority.

(o) County Officials Compensation Board.

(p) Financial Disclosure Review Commission.

(q) Kentucky Employees Retirement Systems.

(r) Commonwealth Credit Union.

(s) State Investment Commission.

(t) Kentucky Housing Corporation.

(u) Governmental Services Center.

(v) Kentucky Local Correctional Facilities Construction Authority.

(w) Kentucky Turnpike Authority.

(x) Historic Properties Advisory Commission.

9. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

10. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

11. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Tax Compliance.

(c) Department of Administrative Services.

12. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

13. Cabinet for Workforce Development:

(a) Department for Adult and Technical Education.

(b) Department of Vocational Rehabilitation.

(c) Department for the Blind.

(d) State Board for Adult and Technical Education.

(e) Governor's Council on Vocational Education.

(f) Governor's Commission on Literacy.

(g) The State Board for Proprietary Education.

(h) The GED Foundation.

(i) The Kentucky Occupational Information Coordinating Committee.

(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 48. KRS 15.242 is amended to read as follows:

The Attorney General shall possess jurisdiction, concurrent with that of county and Commonwealth's attorneys, to investigate and prosecute violations of the election laws. The Attorney General, county ***attorneys,*** and Commonwealth's attorneys shall notify the ***Kentucky Election Commission*** [~~Registry of Election Finance~~] of any investigation or prosecution of alleged election law violations.

Section 49. KRS 15.243 is amended to read as follows:

(1) In addition to the other duties and powers of the Attorney General, he shall enforce all of the state's election laws by civil or criminal processes.

(2) The Attorney General shall:

(a) Devise and administer programs to observe the conduct of elections;

(b) Hold public hearings;

(c) Establish a toll-free telephone service for the purpose of receiving reports of election law violations. The service shall be operated during regular business hours throughout the year and during the hours which any poll in the state is open on the day of any primary, special election, or regular election;

(d) Initiate investigations or investigate alleged violations of election laws at the request of a registered voter or on his own motion;

(e) Issue subpoenas for the production of any books, papers, correspondence, memoranda, or other records, and compel the attendance of witnesses that he deems relevant to the purposes of any investigation;

(f) Present evidence of alleged violations to a grand jury; and

(g) File appropriate complaints in any court of competent jurisdiction.

(3) (a) The Attorney General shall be required to begin an independent inquiry for any potential irregularities that may have occurred in each election in not fewer than five percent (5%) of Kentucky's counties, to be selected at random in a public process, within twenty (20) days following each primary or regular election. No county shall be subject to inquiry under this subsection in two (2) consecutive elections.

(b) The Attorney General shall report his findings to the grand jury of each county involved and to the chief Circuit Judge for the circuit in which the county is located.

(4) When the ***Kentucky Election Commission*** [~~Registry of Election Finance~~] concludes there is probable cause to believe a violation of election laws has occurred, it shall forward the matter to the Attorney General for prosecution. ***If*** [~~In the event~~] the Attorney General or local prosecutor fails to prosecute the matter in a timely fashion, the ***commission's*** [~~registry's~~] attorney may petition the Circuit Court to be appointed as a special prosecutor. Upon ***a*** [~~such~~] motion timely filed, for good cause shown, the court shall enter an order to that effect.

(5) When requested by the Attorney General, all state and local agencies and officials, including the Auditor of Public Accounts, Commonwealth's attorneys, county attorneys, ***Kentucky Election Commission*** [~~Registry of Election Finance~~], State Police, sheriffs' departments, and local police shall give all possible assistance to the Attorney General in the performance of his duties.

Section 50. KRS 27A.070 is amended to read as follows:

The Administrative Office of the Courts shall send certified notices of conviction of a felony to the ***Kentucky Election Commission*** [~~State Board of Elections~~] within ten (10) days after the conviction becomes final, including the exhaustion of all appeals, with regard to any person before the courts of the Commonwealth.

Section 51. KRS 30A.145 is amended to read as follows:

Each circuit clerk shall send certified notices of incompetency to the ***Kentucky Election Commission*** [~~State Board of Elections~~] within ten (10) days after the determination has become final with regard to any person before the courts of the county.

Section 52. KRS 61.730 is amended to read as follows:

Each person subject to KRS 61.710 to 61.780, while holding office or employment, shall file with the Kentucky ***Election Commission*** [~~Registry of Election Finance~~], by March 15 of each year, the written report required by KRS 61.740. Each person who is a candidate for any of the subject offices shall file with the ***Kentucky Election Commission*** [~~Registry of Election Finance~~], by March 15 of the year in which he becomes a candidate, the report required by KRS 61.740. Nothing in KRS 61.710 to 61.780 shall be construed to require the filing of more than one (1) complete report for each subject individual each year, except that each individual shall, in writing, notify the ***Kentucky Election Commission*** [~~Registry of Election Finance~~] of the acquisition or termination of any interests subject to the requirements of KRS 61.710 to 61.780 by January 1 of each year.

Section 53. KRS 61.740 is amended to read as follows:

(1) Persons required to file information under KRS 61.710 to 61.780 shall file with the ***Kentucky Election Commission*** [~~Registry of Election Finance~~] the following:

(a) A description of each financial interest, direct or indirect, of a value of $1,000 or greater of himself, his spouse***,*** [~~and~~] his dependents, and his principal employer. Exempted from this disclosure are interests in the form of accounts in banks, savings and loan associations, and credit unions and equity interests valued at less than $1,000.

(b) A list of every office, directorship***,*** or employment held by the subject individual and by his spouse and dependents and his principal employer in any entity regardless of the income received or equity held, excepting such activities in political, religious***,*** or charitable entities if compensation of less than $1,000 per year is received.

(c) A list of all entities to whom the subject individual and his principal employer furnished compensated services valued at more than $1,000 during the period covered by the report.

(2) The values of the interests required to be reported under this section need not be disclosed. Any entity required to be reported under this section need not be identified by name. ***The*** [~~Such~~] entity may instead be identified by the principal types of economic activities in which it engages, together with such additional detail, to be prescribed by the ***commission*** [~~registry~~], as will fairly indicate its interests. Where disclosure is required because of legal services rendered to it, ***the*** [~~such~~] entity may also be described by the type of legal services rendered to it.

Section 54. KRS 61.750 is amended to read as follows:

Reports required by KRS 61.710 to 61.780 shall be filed with the Kentucky ***Election Commission*** [~~registry of election finance~~] and shall be public record, subject to inspection by any citizen of the Commonwealth. Within thirty (30) days after reports are due, the ***commission*** [~~registry of election finance~~] shall publish a list of those persons who have filed reports, and shall notify any person required to file, who has failed to file ***the*** [~~such~~] report, by certified mail, return receipt requested of his failure to comply with KRS 61.710 to 61.780.

Section 55. KRS 61.760 is amended to read as follows:

(1) The ***Kentucky Election Commission*** [~~Registry of Election Finance~~] shall appoint [~~such~~] employees [~~as are~~] necessary to provide the service to carry out all purposes of KRS 61.710 to 61.780, including an attorney or attorneys on a full or part-time basis.

(2) The ***commission*** [~~Registry~~] shall ***promulgate administrative*** [~~adopt such~~] regulations and official forms and perform ***the*** [~~such~~] duties [~~as are~~] necessary to implement the provisions of KRS 61.710 to 61.780. The ***commission may*** [~~Registry is authorized and empowered to~~]:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for the individuals subject to KRS 61.710 to 61.780 describing the requirements of the law, including uniform methods of reporting;

(c) Permit copying or photocopying of any reports as requested by any person;

(d) Ascertain whether any individual subject to the requirements of KRS 61.710 to 61.780 has failed to file a report or has filed a defective report, ***and*** give notice to delinquents of failure to file the report, as provided in KRS 61.740; ***and***

(e) Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of documents and attendance of witnesses.

Section 56. KRS 61.770 is amended to read as follows:

The office or candidacy of any person required by KRS 61.710 to 61.780 to file a report who fails to file the report required by KRS 61.710 to 61.780 within thirty days after receipt of the ***commission's*** [~~Registry's~~] notice of noncompliance provided in KRS 61.750 or willfully files fraudulent information shall be void, and the office or candidacy shall be filled as provided by law for the filling of the vacancy. An action to declare a vacancy under KRS 61.710 to 61.780 may be brought by the ***commission*** [~~Registry~~] upon its determination, after investigation and hearing, that a violation of KRS 61.710 to 61.780 has occurred.

Section 57. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than one hundred nineteen (119) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than ninety-one (91) days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than one hundred nineteen (119) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than ninety-one (91) days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.

4. If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the ***Kentucky Election Commission*** [~~Registry of Election Finance~~] pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

5. In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.

6. Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

7. If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity or withdrawal of a candidate, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than ninety-one (91) days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election, candidates shall not file petitions of nomination to fill the vacancy with the county clerk, but shall seek election by write-in vote. If no person is elected to the office by write-in vote at the regular election, the vacancy in office shall be filled temporarily by appointment by the officer or body designated by law to fill the appointment.

(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

Section 58. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapte. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk or the Secretary of State as provided in KRS 83A.047, file with the county clerk a petition of nomination, which shall be in the form prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~] signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk or the Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk or the Secretary of State shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office. If, in accordance with the provisions of this section or KRS 83A.045(2)(b), a primary election has not been held, candidates for nonpartisan city office shall not be required to make pre-election reports to the ***Kentucky Election Commission*** [~~Registry of Election Finance~~] pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk or the Secretary of State dies or notifies the clerk or the Secretary of State in writing, signed and properly notarized that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 59. KRS 83A.175 is amended to read as follows:

(1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary election pursuant to KRS 83A.045.

(2) Each candidate shall, by at least the last date prescribed by the election law generally for filing petitions of nomination with the county clerk or the Secretary of State, file with the county clerk or the Secretary of State a petition for candidacy. The petition shall be prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~] and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(3) The county clerk or the Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk or the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(5) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk or the Secretary of State, dies or notifies the clerk or the Secretary of State in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(6) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

Section 60. KRS 116.045 is amended to read as follows:

(1) Any person may register as a voter during the period registration is open if he possesses, or will possess on the day of the next regular election, the qualifications set forth in KRS 116.025.

(2) The county clerk shall cause all registration to be closed the fourth Tuesday preceding through the first Monday following, any primary or general election, and the twenty-eight (28) days prior to and seven (7) days following any special election. No voter shall be registered or be permitted to change his registration during the period that the registration is closed; except that, registration shall be closed only in those precincts in which the election is held. During the period that registration is closed, the county clerk shall accept no registrations or changes in registration except those received by mail or completed on election day at the polls and delivered to the clerk by the precinct election officers.

(3) In all counties, the county clerk shall receive registrations, transfers, or changes of party affiliation at branch offices at any place in the county during those periods that the registration books are open. However, notice in the manner provided by KRS Chapter 424 shall be given at least three (3), but not more than fourteen (14), days in advance of the time and place of any branch registration, and ten (10) days' written notice shall be given to the county executive committee of each major political party in the county in which the branch registration is to be held.

(4) Any person may register to vote or may change his party affiliation in any of the following ways:

(a) In person;

(b) By mail;

(c) By means of the federal post card application, if the person is a resident of Kentucky and a member of the Armed Forces, or a dependent of members of the Armed Forces, or overseas citizen; or

(d) By other methods of registration, or reregistration, approved by the ***Kentucky Election Commission*** [~~State Board of Elections~~], including the use of voluntary interested groups and political parties, under the proper supervision and directions of the county clerk, which may include door to door canvassing.

(5) Upon receipt of the form prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~], properly filled out and signed by the applicant, the county clerk shall register the applicant.

(6) Any individual or group shall have access to a reasonable number of voter registration forms in the county clerk's office. The individual or group shall act under the proper supervision and directions of the county clerk and shall return these completed forms to the county clerk for official registration by the county clerk.

(7) The county clerk shall provide voter registration cards which shall be made available where motor vehicle license plates are issued. The cards shall be displayed in plain view and notice of their availability posted prominently. Personnel who issue licenses may offer a voter registration card. The completed forms shall be returned by the applicant either in person or by mail to the county clerk for official registration.

Section 61. KRS 116.046 is amended to read as follows:

(1) The county clerk shall provide voter registration forms to each principal or assistant principal of every public high school, each area vocational school, and upon request, private schools, who shall designate a person in each school who shall be responsible for informing students and school personnel of the availability of the registration forms and assist them in properly registering. The completed forms shall be returned to the county clerk, for official registration by the county clerk.

(2) Any person designated to assist in registration in subsection (1) of this section shall fulfill this responsibility in an impartial and fair manner and shall not recruit a registrant for any particular party.

(3) The State Board of Education shall implement programs of public education regarding elections, voting procedures, and election fraud, which shall include an audio-visual presentation for high school juniors and seniors. The State Board of Education, after consultation with the ***Kentucky Election Commission*** [~~State Board of Elections~~], shall update the public education programs required by this section as relevant statutory changes occur, as different types of voting machines are used, or as more effective methods of presentation shall be developed.

Section 62. KRS 116.085 is amended to read as follows:

(1) When a voter changes his place of residence to another location within the county, the clerk shall, upon application of the voter in person or by mail, transfer the voter's registration record to the proper precinct.

(2) When the boundaries of a precinct are changed by law, placing a registered voter in a new or different precinct, the clerk shall automatically transfer the voter's registration record to the proper precinct and mail the voter a notice of the change.

(3) A voter who has changed his name may indicate the change at the precinct on election day by completing the form provided for this purpose by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. The form shall be returned by the precinct officer to the county clerk who shall make the necessary change on the voter's registration record.

(4) The county clerk may petition the ***Kentucky Election Commission*** [~~State Board of Elections~~] for approval of a plan by which the clerk may make changes in voter addresses based upon the clerk's own knowledge of the change. If a voter's address is changed through a plan approved under this subsection, the clerk shall transfer the voter's registration record to the proper precinct and shall, within ten (10) days

of the transfer, mail to the voter a notice of the address change which shall include the name and voting location of the voter's new precinct.

Section 63. KRS 116.112 is amended to read as follows:

(1) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall establish by administrative regulation a schedule to conduct a purge of ineligible and deceased voters in every even-numbered year beginning with the fiscal year which begins July 1, 1990. The purge shall be conducted as set forth in this section, or by use of the United States Postal Service Address Information System (AIS).

(2) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall send to each registered voter, by first class mail, a notice of voter registration. The notice shall contain:

(a) The name of the voter; and

(b) The voter's precinct.

(3) The notice shall provide that it is not forwardable and shall be returned to the ***Kentucky Election Commission*** [~~State Board of Elections~~] if undeliverable.

(4) If the notice is returned by the postal service with information that the voter has moved or may otherwise be ineligible to vote, the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall forthwith mail to the voter who has moved a notice of intention to remove the voter's name from the voter registration list. This notice shall be forwardable and shall give the voter thirty (30) days to protest that he remains eligible to vote and should not be removed from the registration rolls. The expiration of this thirty (30) day notice shall not fall during a period when the registration books are closed for any primary or general election. The ***commission's*** [~~State Board of Elections'~~] purgation notice shall contain a change of address form addressed to the county clerk of the county where the voter resides upon which the voter may request that his voter registration be transferred to his new address in the county or may request a hearing before the county board of elections to protest that he remains eligible to vote. Immediately upon mailing of the notices to a county, the ***commission*** [~~State Board of Elections~~] shall forward to the county clerk a list of all voters in the county to whom purgation notices were sent.

(5) If the voter requests a change of address, in person or in writing, with the county clerk before the end of the thirty (30) day notice period, or if the voter files a protest before the end of the thirty (30) day notice period, he shall not be removed from the registration rolls of the county. All protests against removal shall be heard at the regular monthly meeting of the county board of elections next following the day upon which the thirty (30) day notice period expires.

(6) At the expiration of the thirty (30) day notice period, the county clerk shall remove from the registration rolls the names of all voters submitted to him by the ***Kentucky Election Commission*** [~~State Board of Elections~~], except those voters who have transferred their voter registration to their current residence address or who have filed a protest to be heard by the county board of elections.

Section 64. KRS 116.113 is amended to read as follows:

(1) Upon receipt of notification from the Cabinet for Human Resources of the death of a person, the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(2) Upon receipt of notification from the circuit clerk that a person has been declared incompetent, the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(3) Upon receipt of notification from the Administrative Office of the Courts that a person has been convicted of a felony offense, the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall within five (5) days cause the removal of the name of that person from the voter registration records it maintains, except that no voter's name may be removed during the period of time the registration books are closed for any primary, general or special election.

(4) Following the purge of a name from the records of the ***Kentucky Election Commission*** [~~State Board of Elections~~], the ***commission*** [~~state board~~] shall notify the clerk of the county in which the voter lived of the action; and the county clerk shall within ten (10) days update the county voter registration files to reflect the necessary change. If a protest is filed by the voter, the county board shall hear it at its next regular monthly meeting. If the county board decides in favor of the protesting voter, the voter's registration record shall be restored, including his voting record. If the protest is filed while the registration books are closed and the county board decides in favor of the protesting voter, the county board shall issue the voter an "Authorization to Vote" for the upcoming election and the voter's record shall be restored when the registration books open following the election.

Section 65. KRS 116.125 is amended to read as follows:

(1) In addition to the biennial purge required by KRS 116.112, the county board of elections may, upon information known to it or furnished to it by any citizen, purge from the county registration rolls the name of any voter who is no longer properly registered. Before purgation shall take place, the county board of elections shall mail to the voter a notice of intent to purge his name in thirty (30) days if no protest is filed by the voter. The end of the thirty (30) day protest period shall not fall within the time when the registration rolls are closed for any primary or general election. At the end of the thirty (30) days, if no protest has been filed, the county board of elections shall submit to the county clerk the name or names of voters to be purged and the clerk shall remove the name or names from the registration rolls of the county. If a protest is filed, the county board shall hear the matter at its next regular monthly meeting and the protesting voter's name shall not be removed from the registration rolls until the hearing is held.

(2) If the hearing is held during the period when the registration books are closed and the ***county*** board determines that the voter is not properly registered, the [~~county~~] board shall submit the name of the voter to the county clerk for purgation when the registration books open immediately following an election. The board shall also provide notice to the election officers in the precinct where the voter's name appears on the precinct roster that the board has ruled the voter ineligible to vote and shall not be permitted to vote unless the Circuit Court issues an order to that effect.

(3) All forms pertaining to the notice of purgation and the notice to the precinct election officers relative to ineligible voters shall be prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~].

Section 66. KRS 116.155 is amended to read as follows:

All forms pertaining to registration shall be prescribed and furnished by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. The registration form shall include the voter's name; date of birth; Social Security number, if any; mailing and residence addresses, if different and telephone number; and [~~such~~] other information [~~as~~] the ***commission*** [~~State Board of Elections~~] may deem necessary. No person shall be denied the right to register because of the failure to include his Social Security number or telephone number. All forms which require a voter's signature shall provide for verification by the signer thereof.

Section 67. KRS 117.027 is amended to read as follows:

The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall promulgate administrative regulations and procedures necessary to:

(1) Designate which election records and materials shall be retained;

(2) Establish the manner in which the records and materials shall be maintained;

(3) Establish by whom the records shall be maintained; and

(4) Establish the period of time the records shall be retained, but ***the*** [~~such~~] records shall be retained for not less than twenty-two (22) months.

Section 68. KRS 117.030 is amended to read as follows:

(1) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall publish and broadcast announcements throughout the state regarding the importance of voting in a free and conscientious manner, procedures for registering to vote and voting, general election laws, and penalties for vote buying and selling.

(2) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall provide for the conspicuous placement of signs at all precinct polling places, which shall state that vote buying and selling are illegal and shall state the penalties for ***those*** [~~such~~] acts.

Section 69. KRS 117.035 is amended to read as follows:

(1) There shall be a county board of elections, which shall, at the direction and under the supervision of the ***Kentucky Election Commission*** [~~State Board of Elections~~], administer the election laws and the registration and purgation of voters within the county.

(2) The board shall consist of the county clerk, the sheriff and two (2) members appointed by the ***Kentucky Election Commission*** [~~State Board of Elections~~] not later than July 1 following the election of persons to statewide office, for a term of four (4) years and until their successors are appointed. The first board shall be appointed within one (1) month following December 1, 1972, and serve until successors are appointed in April, 1976. The sheriff shall not serve on the board during any year in which he is a candidate, but shall recommend to the board a temporary replacement to serve in his place, subject to approval by the board. The county clerk may, at his option, continue to serve on the board during a year in which he is a candidate. If the clerk elects not to serve, he shall recommend a temporary replacement to serve in his place, subject to approval by the board. If the board rejects a replacement recommended by the sheriff or the county clerk, a new name shall be recommended until a temporary appointment is approved by the board. Service on the board of elections shall be compatible with the holding of any other county office. The members shall be at least twenty-one (21) years of age, qualified voters in the county from which they are appointed, and shall not have been convicted of any election law offense. One (1) member shall be appointed from a list of five (5) names submitted by the county executive committee of each of the two (2) political parties that polled the largest number of votes in the state at the last preceding election for presidential electors. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party, shall be the one (1) authorized to submit the lists. Appointees may be removed by the ***Kentucky Election Commission*** [~~State Board of Elections~~] for cause. If an appointee is temporarily unable to act, a temporary appointee shall be named by the ***commission*** [~~State Board of Elections~~]. A temporary appointee shall serve until the original appointee notifies the ***commission*** [~~State Board of Elections~~] that he is able to resume his term. Vacancies and temporary vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy or temporary vacancy shall be of the same political party as his predecessor. Compensation and payment of actual expenses of members shall be set by the fiscal court

either as an amount payable on an annual basis, or as an amount payable on a per diem basis of not less than fifteen dollars ($15) nor more than one hundred dollars ($100) for each day the board meets.

(3) A majority of the board shall constitute a quorum. The county clerk shall serve as chairman of the meetings and may vote. In case of a tie, the chairman may cast an additional vote. Records shall be kept of all proceedings, and the records shall be public and kept at the office of the county clerk.

(4) The board shall meet at least once a month and may meet more frequently if necessary. The board shall stay in session on election days to correct clerical errors and rule on questions regarding voter registration and may make to the election officers such certifications as may be necessary. On election days, appeals may be made to a circuit judge, but a ruling of the board shall be reversed only upon a finding that it was arbitrary and capricious.

(5) In counties containing cities of the first and second class, the board may employ, on a bipartisan basis, a staff sufficient to carry out the duties assigned to the board.

Section 70. KRS 117.045 is amended to read as follows:

(1) The county board of elections shall in the manner prescribed by this section, not later than September 20 each year, appoint for each precinct in the county two (2) judges, one (1) clerk and one (1) sheriff of election. They shall serve in all elections held in the county during the year, except as provided in KRS Chapter 242.

(2) The county executive committees of the two (2) political parties having representation on the ***Kentucky Election Commission*** [~~State Board of Elections~~] may, on or before September 15 each year, designate in writing to the county board of elections a list of not less than four (4) names for each precinct; except that, in any precinct where there are not as many as four (4) persons possessing the qualifications of an election officer belonging to the political party filing the list, a less number may be designated. If there are two (2) or more contending executive committees of the same party in any county, the one (1) recognized by the written certificate of the chairman of the state central committee of the party shall be the one (1) authorized to submit the lists. The lists shall contain the full name, address, phone number and Social Security number, if available, of each person listed. The lists shall be accompanied by a signed statement from each person stating that he is willing to serve, has not failed to serve without excuse in the past, and has not been convicted of an election law offense. The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall prescribe by administrative regulation the form of the list.

(3) The Attorney General shall notify each county political party chairman of the duties of the party.

(4) If lists are submitted, one (1) judge at each voting place shall be selected from each list, and the sheriff shall be chosen from one (1) list and the clerk from the other. If no lists are submitted, the two (2) members of the county board of elections who are appointed by the ***Kentucky Election Commission*** [~~State Board of Elections~~] may submit lists; and the county board shall select the sheriff and one (1) judge from one (1) list and the clerk and the other judge from the remaining list. If no lists are submitted, the county board shall select the sheriff and one (1) judge from the membership of one (1) party and the clerk and the other judge from the membership of the remaining party.

(5) If, after all reasonable efforts have been made, the county board of elections is unable to find two (2) qualified officers for each precinct who are affiliated with the two (2) political parties having representation on the ***Kentucky Election Commission*** [~~State Board of Elections~~], the county board shall submit a list of emergency election officer appointments to the ***commission*** [~~State Board of Elections~~]. The county board shall also present, in writing, its efforts to recruit and appoint election officers as prescribed in subsection (4) of this section. The list of emergency appointments may include qualified voters not affiliated with the two (2) parties represented on the ***commission*** [~~state board~~]. The ***commission*** [~~state board~~], after its review, may approve any or all of the emergency appointments submitted by the county board or may direct the

county board to take other action. Any emergency appointment shall be made for the next ensuing election only.

(6) The county board of elections shall, within ten (10) days before the next ensuing election, give each election officer written notice of his appointment. The board may direct the sheriff of the county to serve the notice of appointment, if it deems the action is necessary.

(7) The ***Kentucky Election Commission*** [~~State Board of Elections~~] may require the county board of elections to submit its list of precinct officers for review. The ***commission*** [~~State Board of Elections~~] may, after a hearing, direct the removal of any election officer who the board finds, based upon clear and convincing evidence, would not fairly administer the state election laws. The ***commission*** [~~state board~~] shall replace any officer so removed. The ***commission*** [~~board~~] shall provide for the method and manner of the hearing by administrative regulation.

(8) An election officer shall be a qualified voter of the precinct; except that, where no qualified voter of the required political party is available within the precinct, the election officer shall be a qualified voter of the county. An election officer shall not be a candidate or the spouse, parent, brother, sister or child of a candidate who is to be voted for at the election. An election officer shall not have changed his voter registration party affiliation for two (2) years prior to his appointment. An election officer may be removed, for cause, at any time up to five (5) days before an election. Vacancies shall be filled in the same manner as provided for original appointments and the person appointed to fill the vacancy shall be of the same political party as his predecessor, except for emergency appointments made as provided in subsection (5) of this section.

(9) If the county board of elections fails to appoint election officers, or if any officer is not present at the precinct at the time for commencing the election, or refuses to act, and if no alternate is available, the officer in attendance representing the political party of the absentee shall appoint a suitable person to act in his place for that election. If both representatives of the same political party are absent, qualified voters present affiliating with that party shall elect, viva voce, suitable persons to act in their places.

(10) Each election officer shall be paid a minimum of forty-nine dollars ($49) per day, and [~~such~~] an additional amount as compensation [~~as may be~~] determined by the county board of elections, with the approval of the governing body which would be responsible for funding the election officers' pay, for each election in which the election officer serves, to be paid by the county. For delivering the election packets to the polls, the precinct election officers shall receive in addition the mileage reimbursement provided for state employees[~~;~~] for each mile necessarily traveled in the delivery of the packets to the polls, or a flat fee if the fee equals or exceeds that amount. For delivering election returns, the two (2) judges shall receive in addition the mileage reimbursement provided for state employees for each mile necessarily traveled from the place of voting to and from the place of delivery, or a flat fee if the fee equals or exceeds that amount. The fee paid to the two (2) judges for delivering election returns shall be paid by the county.

Section 71. KRS 117.055 is amended to read as follows:

(1) Each county shall be divided into election precincts. The political territory having the least area within the county's boundaries, with the exception of the total area of a city or town contained within such boundaries, shall be designated an election precinct. Each election precinct shall be composed of contiguous and, as nearly as practicable, compact areas having clearly definable boundaries and wholly contained within any larger district. The county board of elections shall have the authority to draw precinct lines so as to enable more than one (1) precinct to vote at one (1) location. The county board of elections shall review election precinct boundaries as often as necessary. Without exception, they shall review the boundaries of all election precincts exceeding seven hundred (700) votes cast in the last regular election prior to each primary election. Consideration to the division of ***the*** [~~said~~] election precincts should be based on the anticipated growth factor within the specified boundaries; however, the county board of elections shall not be prohibited from dividing election precincts in excess of seven hundred (700) votes cast in the last regular election or less than seven hundred (700) votes cast in the last regular election if they elect to do so. No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any primary election to comply

with the provisions of this section later than the last date prescribed by election law generally for filing notification and declaration forms with the county clerk or Secretary of State. No election precinct shall be created, divided, abolished, or consolidated or the boundaries therein changed prior to any general election to comply with the provisions of this section later than the last date prescribed by election law generally for filing certificates or petitions of nomination with the county clerk or Secretary of State. The county board of elections shall designate the name or number and the boundaries of the election precincts. Each precinct shall contain, as nearly as practicable, an equal number of voters, based on the number of registered voters in the county. A map and listing of the exact election precinct boundaries shall be filed by the county board of elections with the ***Kentucky Election Commission*** [~~State Board of Elections~~], and any changes in boundaries thereafter made shall also be filed with the ***commission*** [~~State Board of Elections~~]. A copy of this map indicating all precinct boundaries within the county shall be included in the election supplies of each precinct.

(2) If the county board of elections fails to perform the duty herein required, [~~then~~] the ***Kentucky Election Commission*** [~~state board of elections~~] or any citizen and voter of the county may apply to the Circuit Court of the county for a summary mandatory order requiring the board to perform this duty. Appeals may be taken to the Court of Appeals by either party.

(3) The county board of elections shall coordinate all precinct boundary changes with the affected school board, magisterial, and municipal boundaries.

Section 72. KRS 117.056 is amended to read as follows:

(1) The provisions of KRS 117.055 notwithstanding, the county boards of elections shall maintain the boundaries of election precincts from July 15 of each year ending in "0" until the termination of the next following regular session of the General Assembly or until the termination of any extraordinary session of the General Assembly which enacts congressional and state legislative redistricting legislation following receipt of the decennial U. S. Census of Population, whichever shall occur at the earlier date.

(2) If any county board of elections fails to perform the duty placed upon it by subsection (1) of this section, the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall apply to the Circuit Court of the county for a writ of mandamus requiring the county board to perform this duty.

Section 73. KRS 117.079 is amended to read as follows:

The provisions of KRS 117.085 and 117.086 notwithstanding, the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall, as circumstances warrant and with the concurrence of the Attorney General, promulgate necessary administrative regulations to preserve the absentee voting rights of residents of Kentucky who are military personnel serving on active duty outside the United States and other residents of Kentucky residing outside the United States.

Section 74. KRS 117.086 is amended to read as follows:

(1) The voter returning his absentee ballot by mail shall mark his ballot, seal it in the inner envelope and then in the outer envelope, and mail it to the county clerk as shall be provided by this chapter. The voter shall sign the detachable flap and the outer envelope in order to validate the ballot. In order to be counted, the ballots shall be received by the clerk by at least the time established by the election laws generally for the closing of the polls, which time shall not include the extra hour during which those voters may vote who were waiting in line to vote at the scheduled poll closing time.

(2) Any voter who ***will*** [~~shall~~] be absent from the county on election day, but who does not qualify to receive an absentee ballot by mail under the provisions of KRS 117.085, [~~and~~] all members of county boards of elections, and precinct election officers qualified to vote by absentee ballot under the provisions of KRS 117.085, shall vote at the main office of the county clerk prior to the day of election. The clerk may provide

for ***the*** [~~such~~] voting by absentee ballot or may use the voting equipment in general use in the county either at the precinct or the equipment as may be used to tabulate absentee ballots, except as follows:

(a) Any voter qualifying to vote in the clerk's office as provided by this subsection who receives assistance to vote shall use the typed inner and outer envelopes as required in subsection (1) of this section.

(b) Any voter qualifying to vote in the clerk's office as provided by this subsection whose qualifications are challenged by any clerk or deputy shall vote in the manner required in subsection (1) of this section and shall complete an "Oath of Voter" affidavit which shall be inserted in the outer envelope along with the inner envelope.

(3) If the clerk uses general voting equipment or absentee ballot tabulating equipment as provided for in subsection (2) of this section, each voter casting his vote at the clerk's office shall sign an "Absentee Ballot Signature Roster."

(4) The clerk shall designate a location within his office where the ballots shall be cast secretly. In counties containing a city of the first or second class, the county clerk may establish locations other than his main office in which the voters may execute their ballots. Public notice of the locations shall be given pursuant to KRS Chapter 424 and similar notice by mail shall be given to the county chairmen of the two (2) political parties whose candidates polled the largest number of votes in the county at the last general election.

(5) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall promulgate administrative regulations to provide for casting ballots as provided in subsection (2) of this section.

(6) The clerk shall deposit all of the returned absentee ballots in a locked ballot box immediately upon receipt without opening the outer envelope. The ballot box shall be locked with three (3) locks. The keys to the box shall be retained by the three (3) members of the central absentee ballot counting board, if one is appointed, or by the members of the board of elections, and the box shall remain locked until the ballots are counted. All voting equipment on which ballots are cast as permitted in subsection (2) of this section shall also remain locked and the keys shall be retained by the three (3) members of the central absentee ballot counting board, if one ***(1)*** is appointed, or by the members of the board of elections, and the equipment shall remain locked until the ballots are counted.

(7) The clerk shall keep a list of all persons who return their mail ballots or cast their ballots in the clerk's office and send a copy of that list to the ***Kentucky Election Commission*** [~~state board~~] after election day. The county clerk and the Secretary of State shall keep a record of the number of absentee ballots cast in any election as a part of the official returns of the election.

Section 75. KRS 117.0863 is amended to read as follows:

(1) Except for those voters who have been certified as requiring assistance in voting on a permanent basis, any person voting by means of an absentee ballot as provided in this chapter who receives assistance in voting shall be required to complete the voter assistance form required by KRS 117.255.

(2) Any person who assists another person in voting by use of an absentee ballot shall complete the voter assistance form required by KRS 117.255.

(3) The detachable flap on all absentee ballots shall have printed upon it the voter assistance form required by KRS 117.255, as well as a notice of the penalty for failure to complete the form.

(4) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall promulgate a voter assistance form which shall be in a form acceptable to the Attorney General.

Section 76. KRS 117.087 is amended to read as follows:

(1) The challenge of an absentee ballot shall be in writing and in the hands of the county clerk before 3:00 p.m. on election day.

(2) The county board of elections shall count the absentee ballots. The board may appoint a central absentee ballot counting board of not less than three (3) members, who shall be qualified voters and no more than two-thirds (2/3) of whom shall be members of the same political party, to count the ballots at the direction of the county board of elections.

(3) Beginning at 3:00 p.m. on election day, the board shall meet at the clerk's office to count the absentee ballots. Candidates or their representatives shall be permitted to be present. The county board of elections shall authorize representatives of the news media to observe the counting of absentee ballots. The board shall open the boxes containing absentee ballots and remove the envelopes one (1) at a time. As each envelope is removed, it shall be examined to ascertain whether the outer envelope and the detachable flap are in proper order and have been signed by the voter. All unsigned absentee ballots shall be rejected automatically. The chairman of the county board of elections shall compare the signatures on the outer envelope and the detachable flap with the signature of the voter that appears on the registration card. If the outer envelope and the detachable flap are found to be in order, the chairman shall read aloud the name of the voter. If the vote of the voter is not rejected on a challenge then made as provided in subsection (4) of this section, the chairman shall remove the detachable flap and place the inner envelope unopened in a ballot box which has been provided for the purpose.

(4) When the name of a voter is read aloud by the chairman, the vote of the voter may be challenged by any board member or by the written challenge provided in subsection (1) of this section and the challenge may be determined and the vote accepted or rejected by the board as if the voter was present and voting in person; but if the outer envelope and the detachable flap are regular, and substantially comply with the provisions of this chapter, they shall be considered as showing that the voter is prima facie entitled to vote. If the vote of a voter is rejected pursuant to the challenge, the inner envelope shall not be opened, but returned to the outer envelope upon which the chairman shall write on the envelope the word "rejected".

(5) After the challenges have been made and all the blank inner envelopes have been placed in a ballot box, the box shall be thoroughly shaken to redistribute the ballots in the box. The board shall open the ballot box, remove the absentee ballots from the inner envelopes, and count the ballots.

(6) The board shall unlock any voting equipment used to cast ballots in the clerk's office as provided for in KRS 117.086 and a total of all absentee ballots shall be made and recorded on the form provided by the ***Kentucky Election Commission*** [~~State Board of Elections~~].

(7) The county board of elections shall make public the absentee ballot results after 6:00 p.m.

Section 77. KRS 117.187 is amended to read as follows:

(1) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall regularly provide special training regarding the election laws and methods of enforcement to all county clerks, sheriffs, county attorneys, Commonwealth's attorneys, and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training to all election officers and alternates regarding their duties and the penalties for failure to perform. Election officers, including alternates, shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer for a period of five (5) years.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of five dollars ($5) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

Section 78. KRS 117.225 is amended to read as follows:

(1) Any person desiring to vote on election day shall give his name and address to the clerk of the election. If the person's name is listed on the precinct list furnished by the ***Kentucky Election Commission*** [~~state board of elections~~] as provided in KRS 117.025 and if no challenge is made, he shall sign his name on the precinct list in the space opposite his printed name. The voter's signature shall constitute his verification that he is a properly registered and qualified voter. The voter shall then retire alone to cast his vote on the voting machine. The county board of elections may provide to each precinct the original registration form of each voter entitled to vote in that precinct. These forms shall be used to compare signatures in those precincts to which the forms are provided.

(2) If supplemental paper ballots are used, as provided in KRS 118.215, after voting on the voting machine the voter shall take the supplemental paper ballot with the stub intact and retire alone to the voting booth provided for voting paper ballots. After voting the supplemental paper ballot, the voter shall remove the numbered stub, hand the stub to an election official, and deposit the voted ballot in the locked ballot box.

Section 79. KRS 117.245 is amended to read as follows:

(1) The fact that a person is registered ***shall constitute*** [~~constitutes~~] only prima facie evidence of his right to vote and ***shall*** [~~does~~] not prevent the officers of any election from refusing to allow him to vote for cause.

(2) When the officers of an election disagree as to the qualifications of a voter or if his right to vote is disputed by a challenger, the voter shall sign a written oath as to his qualifications before he is permitted to vote. The oath shall be in ***the*** [~~such~~] form [~~as~~] prescribed by the ***Kentucky Election Commission*** [~~state board of elections~~] and twenty (20) printed copies shall be included in the election supplies of each precinct.

(3) The subscribed oaths shall be returned to the county clerk who shall deliver them to the Commonwealth's attorney.

(4) The Commonwealth's attorney and county attorney shall investigate each of the oaths and cause to be summoned before the grand jury the witnesses they or either of them, deem proper, and the grand jury shall make a thorough investigation of all votes so cast, and return indictments against all persons illegally voting. The foreman of the grand jury shall return to the county clerk all of the oaths upon which no indictments are found. The clerk shall safely keep them as a part of the records of his office, and shall produce any or all of them, when required, to any subsequent grand jury.

Section 80. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) Except for those voters who have been certified as requiring assistance on a permanent basis, no voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. The oath shall be upon a voter assistance form prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. All persons assisting a voter shall execute the voter assistance form.

(3) Upon making and filing with the judges the oath, the voter shall retire to the voting machine, with the judges, and one (1) of the judges shall, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of that employer, an officer or agent of that voter's union, or a candidate shall not assist the voter, nor shall a person assist more than two (2) voters on the date of any primary, regular, or special election.

(4) The clerk shall swear the person accompanying the disabled or blind voter to operate the voting machine in accordance with the directions of the disabled or blind voter, and the disabled or blind voter and the person sworn shall enter the voting booth and the one sworn shall operate the machine for the disabled or blind voter as he directs.

(5) Voters who require assistance on a permanent basis due to blindness or other physical disability may apply to the county board of elections for certification. Application may be made when registering to vote or completing the voter assistance form by indicating the reason for obtaining assistance is permanent. The county board of elections shall determine whether the applicant requires assistance on a permanent basis. The county board of elections shall notify the county clerk who shall enter such certification on the voter's registration record. The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall cause the precinct roster of voters to indicate those voters who are certified to receive assistance permanently without signing voter assistance forms at the precinct.

(6) Voting booth shall mean an area in which a voter casts his vote which is designed to insure the secrecy of the vote. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance.

(7) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(8) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(9) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall adjust it after each person has voted.

(10) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(11) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official, and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

(12) The election sheriff shall be responsible for reporting violations of this section.

Section 81. KRS 117.343 is amended to read as follows:

The county clerk may request reimbursement from the ***Kentucky Election Commission*** [~~state board of elections~~], for the cost of employing office personnel necessary for the conduct of elections, including the registration and purgation of voters in the county. ***The*** [~~Such~~] reimbursement shall not exceed fifty cents

($0.50) per registered voter in the county per year. Claims for reimbursement shall be submitted to the ***commission*** [~~state board~~] by July 31 of each year for employment costs for the preceding fiscal year. Claims shall be on forms provided by the ***commission*** [~~state board of elections~~] and shall show in detail the employee time and costs. If the ***commission*** [~~state board of elections~~] determines that the claims are valid and reasonable, the ***commission*** [~~state board~~] shall submit the claims to the Treasury for payment and they shall be paid within thirty (30) working days. The ***commission*** [~~state board~~] may ***promulgate*** [~~issue~~] administrative regulations prescribing the method and forms for documenting and submitting the claims.

Section 82. KRS 117.345 is amended to read as follows:

(1) The cost of all elections held in any county shall be allowed by the fiscal court and paid by the county treasurer, except as otherwise provided by law.

(2) When the cost of any election has been allowed by the fiscal court and paid by the county treasurer, and within sixty (60) days following the date of the election, the county treasurer shall certify a statement of the number of precincts in the county, the date, and kind of election to the ***Kentucky Election Commission*** [~~State Board of Elections~~]. The certification shall be filed within ninety (90) days after the election. Upon receipt of the certification and upon being satisfied as to the correctness thereof, the ***commission*** [~~state board of elections~~] shall issue its warrant upon the State Treasurer in favor of the county treasurer for the amount of two hundred fifty-five dollars ($255) for each precinct in the county. All sums paid under this section shall be in addition to any sum paid by the state for ballot paper in elections.

(3) Payments to any county under the provisions of subsection (2) of this section shall be terminated if [~~and whenever~~] it fails to renew a lease, contract, or lease and option with the State Property and Buildings Commission executed in connection with the acquisition of voting machines by the commission for the use of ***the*** [~~such~~] county; and payments to any county shall be terminated ***if the*** [~~whenever such~~] county fails to pay any part of the rentals required for any effective period of the lease.

Section 83. KRS 117.355 is amended to read as follows:

(1) Within three (3) days after any primary or general election, the precinct election sheriff shall file a report with the chairman of the county board of elections and with the local grand jury. The report shall include any irregularities observed and any recommendations for improving the election process.

(2) Within ten (10) days after any primary or general election, the county board of elections shall file a report with the ***Kentucky Election Commission*** [~~State Board of Elections, the Registry of Election Finance~~] and the local grand jury. The report shall include any irregularities of which the county board has knowledge and any recommendations for improving the election process. The report shall also include a breakdown by precinct of the number of voters requiring assistance to vote and the reasons therefor; the number of special ballots cast by category; and any other information required by the ***commission*** [~~state board~~].

(3) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall issue administrative regulations to prescribe the forms required by this section.

Section 84. KRS 117.377 is amended to read as follows:

(1) The fiscal court of any county, or any urban county government, may acquire by purchase or lease or lease-purchase agreement or abandon any voting system covered by this chapter, if the equipment has been approved by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. The fiscal court shall notify the ***commission*** [~~State Board of Elections~~] that a new voting system is being installed in the county.

(2) The county clerk of any county may petition the ***Kentucky Election Commission*** [~~State Board of Elections~~] to allow a new voting system in the county if an emergency exists. The petition ***shall*** [~~must~~] state the reasons why the present equipment is inadequate. Within sixty (60) days of the receipt of the petition,

the ***commission*** [~~State Board of Elections~~] shall notify the county clerk whether the permission to obtain a new voting system is granted or denied. The letter of approval shall be presented to the fiscal court for its approval before any new voting system is acquired.

Section 85. KRS 117.379 is amended to read as follows:

(1) Any person or corporation owning, manufacturing, or selling any electronic voting system, may request the ***Kentucky Election Commission*** [~~State Board of Elections~~] to examine ***the*** [~~such~~] system. Before requesting [~~such~~] examination or reexamination, any [~~such~~] person, persons, or corporation shall pay to the State Treasurer an examination fee of five hundred dollars ($500). The ***commission*** [~~State Board of Elections~~] may, at any time, reexamine any system already approved. The ***commission*** [~~State Board of Elections~~] shall approve or disapprove any voting system within thirty (30) days after the date of its initial submission.

(2) Upon receipt of a request for examination of an electronic voting system, the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall require that ***the*** [~~such~~] system be examined or reexamined by three (3) examiners. The ***commission*** [~~State Board of Elections~~] shall appoint one (1) examiner who is an expert in patent law, one (1) examiner shall be an expert in computer science or automatic tabulating equipment, and one (1) person knowledgeable in election procedures in Kentucky. The three (3) examiners shall submit a written report on each system examined or reexamined to the ***commission*** [~~State Board of Elections~~]. The members of the ***commission*** [~~State Board of Elections~~] shall also examine or reexamine the system. If the report states that the system can be safely used by the voters and the ***commission*** [~~State Board of Elections~~] finds that the system meets all of the requirements of this chapter, the system shall be approved. The report and a letter of approval shall be filed in the office of the ***commission*** [~~State Board of Elections~~].

(3) Any electronic voting system not approved by the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall not be used at any election.

(4) When an electronic voting system has been approved, any improvement or changes in the system shall render necessary the examination or approval of ***the*** [~~such~~] system or improvement.

(5) Neither the members of the ***Kentucky Election Commission*** [~~State Board of Elections~~], nor any examiner appointed by the ***commission*** [~~State Board of Elections~~], nor any member of a county board of elections shall have any pecuniary interest in any electronic voting system.

(6) Each examiner appointed by the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall receive fair compensation to be established by the ***commission*** [~~State Board of Elections~~].

Section 86. KRS 117.381 is amended to read as follows:

No electronic voting system shall, upon any examination or reexamination, be approved by the ***Kentucky Election Commission*** [~~state board of elections~~] unless it shall be established that ***the*** [~~such~~] system, at the time of examination or reexamination:

(1) Provides for voting in secrecy;

(2) Permits each voter to vote at any election for all candidates and questions for which he is lawfully entitled to vote, and no others;

(3) Permits each voter, at the general election to vote a straight political party ticket by one (1) or more marks or acts;

(4) Provides a method for write-in voting;

(5) Provides for a nonpartisan ballot;

(6) If it is of a type that registers the vote electronically, the voting system shall preclude each voter from voting for more persons for any office than he is entitled to vote for or upon any question more than once;

(7) Permits each voter at a primary election to vote only for the candidates seeking nomination by a political party in which such voter is registered, and for any candidate for nonpartisan nomination, and for any question upon which he is entitled to vote;

(8) If it is of a type that registers the vote electronically, the voting system shall permit each voter to change his vote for any candidate or upon any question appearing on the official ballot up to the time that he takes the final step to register his vote and to have his vote computed. If it is of a type that uses paper ballots or ballot cards to register the vote and automatic tabulating equipment to compute such votes, the system shall provide that a voter who spoils his ballot may obtain another ballot;

(9) Is suitably designed for the purpose used, is constructed of a durable material, and is safely transportable;

(10) Is so constructed that a voter may readily learn the method of operating it;

(11) If the voting system is of a type which provides for the computation and tabulation of votes at the precinct level, the automatic tabulating equipment shall include the following mechanisms or capabilities:

(a) A public counter or printed register, which shall show during any period of operation the total number of ballots entered for computation and tabulation;

(b) A lock, or locks, either mechanical or under program control, by the use of which all operation of the tabulation element of the automatic tabulating equipment is absolutely prevented immediately after the polls are closed or where the tabulation of votes is completed;

(c) It shall be so constructed and controlled that, during the progress of voting, it shall preclude every person from seeing or knowing the number of votes registered for any candidate or question; and it shall preclude every person from tampering with the tabulating element;

(d) If the number of choices recorded for any office or on any question exceeds the number for which the voter is entitled to vote, it shall reject all choices recorded on the ballot for that office or question;

(e) It shall be equipped with an element which generates a printed record at the beginning of its operation which verifies that the tabulating elements for each candidate position and each question and the public counter are all set to zero and with an element which generates a printed record at the finish of its operation of the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate whose name appears on the ballot, and the total number of votes cast for, or against, any question appearing on the ballot;

(f) It shall be so designed that only those ballots which have write-in choices shall be subject to handling after the voter has cast his ballot; all such ballots shall be handled only at the close of the polls and only by the election officials at the precinct who shall visually verify and tabulate the write-in votes cast;

(12) If the voting system is of a type which provides for the computation and tabulation of all votes at a central counting center, the central automatic tabulating equipment shall include the following mechanisms or capabilities:

(a) It shall be constructed so that every person is precluded from tampering with the tabulating element during the course of its operation;

(b) If the number of choices for any office or on any question exceeds the number for which the voter is entitled to vote, it shall reject all choices recorded on the ballot for that office or question;

(c) It shall have a means by which to verify that the tabulating elements for each candidate position and for each question are all set to zero and shall be able to generate a printed record of each precinct showing the total number of voters whose ballots have been tabulated, the total number of votes cast for each candidate whose name appears on the ballot, and the total number of votes cast for, or against any question. It shall also be capable of generating cumulative election totals.

Section 87. KRS 117.383 is amended to read as follows:

The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall ***promulgate administrative*** [~~prescribe rules and~~] regulations ***regarding the administration of elections*** which shall include but not be limited to the following:

(1) Achieve and maintain the maximum degree of correctness, impartiality, and efficiency of the procedures of voting;

(2) Count, tabulate, and record votes;

(3) Establish a method for placing items on the electronic voting device, which shall, as closely as possible, follow the requirements pertaining to ballot labels;

(4) Design the ballot cards, including a numerical system to insure an accurate record of all voting activities;

(5) Instruct voters in the use of the voting device;

(6) Provide for checking the accuracy of the equipment;

(7) Provide necessary supplies, including those necessary for a write-in vote and secrecy envelopes for punch cards or data processing cards to insure voter privacy;

(8) As part of the official canvass, provide for a manual recount of randomly selected precincts representing three to five percent (3-5%) of the total ballots cast in each election;

(9) Provide a method for maintaining sufficient documents and records so that votes can be recounted. ***The*** [~~Such~~] documents and records shall include any material other than a ballot card which is imprinted with the names of candidates and issues voted upon. Records shall be maintained ***so*** [~~in such a manner~~] that a specific piece of printed material listing issues and candidates can be matched with the specific ballot cards which were marked in reliance upon ***the*** [~~such~~] printed material. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, ***the*** [~~such~~] documents and records shall be maintained for thirty (30) days following an election.

Section 88. KRS 117.389 is amended to read as follows:

On any day not more than ten (10) days prior to the election day, the county clerk shall have the automatic tabulating equipment tested in the manner prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~].

Section 89. KRS 117.393 is amended to read as follows:

Beginning January 1, 1984, the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall submit a biennial report to the ***General Assembly*** [~~Legislature~~] concerning the status of various voting equipment and voting systems that are in use or are approved for use in this state. This report shall also contain any recommendations by the Secretary of State as to election law modifications relating to the acquisition and use of voting equipment and voting systems.

Section 90. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the proper officer at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination. The notification and declaration shall include the following oath:

For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ________________ Party, I, ________________ (name in full as desired on the ballot), do solemnly swear that I reside at No. ________________ street in the City of ________________, State of Kentucky, and that I am a registered ________________ (party) voter in ________________ precinct, City of ________________; that I believe in the principles of the ________________ Party, and intend to support its principles and policies and vote for its nominees at the coming regular election; that I was affiliated with such party and supported its nominees at the last regular election, or was prevented from doing so by reason of ________________ (state reason here); that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw; that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office.

The declaration shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath.

(3) When the notice and declaration has been filed with the proper officer, and certified according to KRS 118.165, the officer shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

Section 91. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party at the time of the last preceding regular election. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. It shall be signed by the candidate and by registered voters of the same political party affiliation from the district or jurisdiction from which the candidate seeks nomination. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number, and post-office address. Failure of a voter to include his Social Security number and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 92. KRS 118.325 is amended to read as follows:

(1) Any political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors may nominate, by a convention or primary election held by the party in accordance with its constitution and bylaws, candidates for any offices to be voted for at any regular election, except the office of member of a board of education, for which nominations shall be made as provided in KRS 160.220. Any political party, as defined in KRS 118.015, and any political organization not constituting such a political party but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors, may nominate, by a convention or primary election held by the party or organization in accordance with its constitution and bylaws, as many electors of President and Vice President of the United States as this state is entitled to elect.

(2) The certificate of nomination by [~~such~~] a convention or primary election shall be in writing, shall contain the name of each person nominated, his residence, and the office to which he is nominated, and shall designate a title for the party or principle that ***the*** [~~such~~] convention or primary election represents, together with any simple figure or device by which its list of candidates may be designated on the voting machines. The certificate shall be signed by the presiding officer and secretary of the convention, or by the chairman and secretary of the county, city, or district committee, who shall add to their signatures their respective places of residence, and acknowledge the same before an officer duly authorized to administer oaths. A certificate of the acknowledgment shall be appended to the certificate of nomination. In the case of electors of President and Vice President of the United States, the certificate of nomination shall state the names of the candidates of the party for President and Vice President.

(3) Any person desiring to become a candidate for an office, the nomination to which is to be made by a convention pursuant to subsections (1) and (2) of this section, except for the office of elector of President and Vice President of the United States, shall file a statement with the official designated in KRS 118.165 with whom notification and declaration forms are filed for the office. The form of the statement shall be prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. ***The*** [~~Such~~] statement shall be filed as prescribed by KRS 118.365.

(4) If the certificate of nomination of any state convention requests that the figure or device selected by ***the*** [~~such~~] convention be used to designate the candidates of ***the*** [~~such~~] party on the voting machines for all elections throughout the state, that figure or by the written certificate of its chairman, shall be recognized by the Secretary of State and county clerk.

Section 93. KRS 118.356 is amended to read as follows:

(1) Certificates and petitions of nomination shall, in the case of candidates voted for by the state at large, by a district greater than one (1) county, or by a city whose boundaries extend beyond those of a single county, be filed with the Secretary of State. In the case of candidates voted for by a county or by a district less than a county, they shall be filed with the county clerk. In the case of candidates for Congress and for General Assembly, they shall be filed with the Secretary of State.

(2) Certificates of nomination at a primary election held under this chapter shall be filed by the ***Kentucky Election Commission*** [~~State Board of Elections~~] or the county board of elections, depending upon which one issued the certificate. Certificates and petitions of nomination shall be filed by the candidate or by someone on his behalf.

Section 94. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the ***Kentucky Election Commission*** [~~State Board of Elections~~] shall be filed by that board with the Secretary of State immediately. The certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices except as provided in KRS 83A.047, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not less than ninety-one (91) days before the day fixed by law for the holding of regular elections.

(3) Candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of President and Vice President of the United States, shall file the statements required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the Secretary of State or county clerk not less than ninety-one (91) days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to one hundred six (106) days before the general election shall be filed not later than ninety-one (91) days prior to the general election.

(6) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the Secretary of State or county clerk not less than one hundred nineteen (119) days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the Secretary of State or county clerk, as required by law, not less than ninety-one (91) days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of President and Vice President of the United States shall be filed with the Secretary of State not less than sixty-eight (68) days prior to the date fixed by law for the election of the electors.

(8) Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 95. KRS 118.415 is amended to read as follows:

(1) When an amendment to the Constitution has been proposed by the General Assembly, the Secretary of State shall cause the text of the proposed amendment to be published at least two (2) times in two (2) newspapers of general circulation published in this state, and shall also cause to be published, at the same time and in the same manner, the fact that the amendment will be submitted to the voters for their acceptance or rejection at the next regular election at which members of the General Assembly are to be voted for. The publication shall be made at least one hundred (100) days preceding the election at which the amendment is to be voted on.

(2) The Attorney General shall state the substance of the amendment in the form of a question in a manner calculated to inform the electorate of the substance of the amendment, and shall certify the question to the ***Kentucky Election Commission*** [~~State Board of Elections~~] to be placed on the voting machine. The ***commission*** [~~State Board of Elections~~], not less than seventy (70) days before the next regular election at which members of the General Assembly are to be chosen, shall certify the substance of the amendment, as stated and certified by the Attorney General, to the county clerk of each county, and the county clerk shall have the substance of the amendment, as so certified, indicated on the voting machines.

(3) The votes cast for and against the amendment shall be counted, canvassed, and certified to the ***Kentucky Election Commission*** [~~State Board of Elections~~] in the same manner as the votes cast for any officer elective by the votes of the whole state. If a majority of the votes cast on the question are for the amendment, it shall become a part of the Constitution.

(4) The expenses of the publications provided for in this section shall be paid as are the expenses of other publications that the Secretary of State is required to make in connection with elections.

Section 96. KRS 118.425 is amended to read as follows:

(1) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall issue certificates of election where the successful candidate was voted for by the state at large, by a district greater than one (1) county, by a city whose boundaries extend beyond those of a single county, or was a candidate for member of Congress or the General Assembly.

(2) The county board of elections shall issue certificates of election where the successful candidate was voted for by the electors of one (1) county, or of a district less than one (1) county, except members of Congress, members of the General Assembly, and designated officers filing with the ***Kentucky Election Commission*** [~~State Board of Elections~~]. The board shall forward the certificate to the elected candidate. If the board finds that two (2) or more candidates have received the highest and equal number of votes for the same office, the board shall determine by lot which of the candidates is elected.

(3) In the case of all offices voted for, and in the case of public questions submitted to the vote of the people of the state at large or of a district greater than one (1) county, the county board of elections shall make out duplicate certificates of the total number of votes received by each of the candidates for the office and the total number of votes for and against each of the questions. The clerk shall keep one (1) of the certificates in his office. He shall, not later than three (3) days after receiving the certificate from the board, forward the other certificate by mail to the Secretary of State who shall deliver it to the ***Kentucky Election Commission*** [~~State Board of Elections~~].

(4) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall meet[~~,~~] to count and tabulate the votes received by the different candidates as certified to the Secretary of State[~~,~~] when the returns are

all in, or on the third Monday after the election whether they are in or not.[~~;~~] but if all the returns are not made, the right to contest an election shall not be impaired. A majority of the members of the ***commission*** [~~board~~] shall constitute a quorum and may act. The ***commission*** [~~board~~] shall make out the certificates of election in the office of the ***commission*** [~~board~~] from the returns made. The ***commission*** [~~board~~] shall make out duplicate certificates of election, in writing, over the signatures of its members. The ***commission*** [~~board~~] shall forward the original certificate, by mail, to the elected candidate. The duplicate shall be retained in the office of the ***commission*** [~~board~~]. In the case of the election of a representative in Congress, an additional certificate shall be made and sent, by mail, to the clerk of the House of Representatives.

(5) The certificate of election shall be issued to the candidate receiving the highest number of votes in the territory from which the election is to be made. If two (2) or more persons are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in the manner the ***Kentucky Election Commission*** [~~board~~] directs, in the presence of not less than three (3) other persons. In the case of elections for electors of President and Vice President of the United States, the ***commission*** [~~board~~] shall issue a certificate of election to each elector of the political party or organization whose candidates for President and Vice President received the highest number of votes and the determination by the ***commission*** [~~board~~] that the candidates of any political party or organization for President and Vice President have received the highest number of votes shall constitute a determination that the electors nominated by that party have been elected.

Section 97. KRS 118.555 is amended to read as follows:

(1) The state executive committee of each political party shall, pursuant to its party's rules, determine whether to distribute its party's authorized delegate votes for presidential candidates at its party's national convention based on the results of a party caucus, a presidential preference primary, or a combination of the two (2) methods. Each state executive committee shall notify the ***Kentucky Election Commission*** [~~State Board of Elections~~] of its decision not less than one hundred forty-seven (147) days prior to the day for conducting a presidential preference primary as set by KRS 118.561.

(2) If a state executive committee determines that its party's authorized delegate votes for presidential candidates at its party's national convention shall be distributed based on the results of a party caucus, a presidential preference primary shall not be conducted for that political party, and the provisions of KRS 118.561 to 118.651 shall not apply. The distribution of delegates among the presidential candidates shall be determined by party rule.

(3) If a state executive committee determines that its party's authorized delegate votes for presidential candidates at its party's national convention shall be distributed based on the results of both a party caucus and a presidential preference primary, the formula for distribution of authorized delegate votes based on the results of a party caucus shall be determined by party rule. The distribution of delegates based on the results of a presidential preference primary shall be in accordance with the provisions of KRS 118.641(1). Regardless of the method by which the authorized delegate votes are distributed, the casting of votes on the first ballot at each party's national convention shall be in accordance with the provisions of KRS 118.641(2).

Section 98. KRS 118.581 is amended to read as follows:

The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall convene in Frankfort one hundred forty (140) days prior to a presidential preference primary. At the meeting required by this section, the ***commission*** [~~board~~] shall nominate as presidential preference primary candidates all those candidates of the political parties for the office of President of the United States who have qualified for matching federal campaign funds. Immediately upon completion of this requirement, the ***commission*** [~~board~~] shall transmit a list of all the nominees selected to the Secretary of State and shall also release the list to the news media.

Section 99. KRS 118.631 is amended to read as follows:

Upon completion of the official canvass of the results of the primary by the ***Kentucky Election Commission*** [~~state board of elections~~], the Secretary of State shall certify to the state chairman of each political party participating in the presidential preference primary the following:

(1) The names of the candidates entitled to delegate votes under provisions of KRS 118.641;

(2) The total vote received by each;

(3) A declaration that the results of the presidential preference primary, in accordance with the division of votes reflected by the official canvass, shall be the official vote cast by each political party at its national convention, on the first ballot only, and shall be designated by KRS 118.551 to 118.651 as an automatic vote, expressing the will of the people of the Commonwealth of Kentucky; and

(4) After the vote on the first ballot by the political party at its national convention, as required by this section, all responsibility under KRS 118.551 to 118.651 shall terminate and further balloting shall be the prerogative of the political parties as might be prescribed by the rules of ***the*** [~~such~~] political parties.

Section 100. KRS 118.775 is amended to read as follows:

A successful candidate in a special election held for the purpose of filling a vacancy in any elective office shall take office immediately upon certification of the election results by the ***Kentucky Election Commission*** [~~State Board of Elections~~] and administration of the oath of office.

Section 101. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not less than one hundred nineteen (119) days before the day fixed by law for holding the primary election. The petition shall be signed by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, one hundred sixteen (116) days before the primary election.

(5) Not less than ninety-eight (98) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

Section 102. KRS 118A.100 is amended to read as follows:

(1) Candidates for an unexpired term of a judicial office to be filled at a regular election shall be nominated at the primary next preceding the regular election in the manner prescribed in KRS 118A.060 if the vacancy occurs not less than one hundred thirty-four (134) days before the primary. If the vacancy occurs on or after the one hundred thirty-fourth day before the primary, the election to fill the unexpired term shall be held in accordance with the procedures described in this section and Section 152 of the Constitution of Kentucky.

(2) If in a regular election for judicial office no candidates nominated as provided in KRS 118A.060 are available due to death, incapacity, or withdrawal, and the candidates have not been replaced as provided in KRS 118A.060, the election to fill the regular term shall be conducted in the manner prescribed in subsections (3) through (11) of this section.

(3) Each candidate shall file a petition for candidacy with the Secretary of State at least ninety-one (91) days before the day fixed by law for holding the regular election. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(4) The petition for candidacy shall be in the form prescribed by the ***Kentucky Election Commission*** [~~State Board of Elections~~]. Titles, ranks, or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(5) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(6) The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, eighty-eight (88) days before the regular election.

(7) Not less than seventy-seven (77) days before the regular election, and after the order of names on the ballot has been determined as required in subsection (6) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for candidacy filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(8) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(9) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the absentee ballots for the regular election the names of the candidates for offices of the Court of Justice.

(10) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot," and in such a manner that the casting of a vote for all of the candidates of a political party will not operate to cast a vote for judicial candidates. The words "Vote for one" or "Vote for one in each division," shall be printed on the appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(11) The candidate receiving the highest number of votes cast at the regular election for a district or circuit, or for a numbered division thereof if divisions exist, shall be elected.

Section 103. KRS 118A.190 is amended to read as follows:

(1) The ***Kentucky Election Commission*** [~~State Board of Elections~~] shall issue certificates of nomination or election for all primary and regular elections as provided in this section.

(2) Following a primary or regular election, ***each county*** [~~the~~] board of elections [~~of each county~~] shall make out duplicate certificates of the total number of votes received by each candidate, by circuit or district, and numbered division thereof if divisions exist. The ***county*** board shall deliver these certificates to the county clerk. The clerk shall keep one (1) of the certificates in his office and, within three (3) days of their receipt from the ***county*** board, shall forward the other certificate by mail to the Secretary of State who shall deliver it to the ***Kentucky Election Commission*** [~~state board of elections~~].

(3) When all the returns are received by the ***Kentucky Election Commission*** [~~state board of elections~~], the ***commission*** [~~board~~] shall meet to count and tabulate the votes received by the different candidates as certified to the Secretary of State. If all returns have not been received by the third Monday after the primary or regular election, the ***commission*** [~~board~~] shall, nevertheless, proceed with its duties at that time. When the ***commission*** [~~board~~] certifies the results of a primary or regular election on the basis of incomplete returns, the right to contest the election shall not be impaired. A majority of the members of the ***commission*** [~~board~~] shall constitute a quorum and may act. The ***commission*** [~~board~~] shall prepare the certificates of nomination or election in the office of the ***commission*** [~~board~~], from the returns made. The certificates shall be in writing and in duplicate, and shall be signed by the ***commission*** [~~board~~] members. The ***commission*** [~~board~~] shall

forward the original certificate, by mail, to the elected candidate, unless he has failed to comply with KRS Chapter 121. The duplicate shall be retained in the office of the ***commission*** [~~board~~].

(4) Certificates of nomination for a judicial office shall be issued to the two (2) candidates receiving the highest number of votes, except that if more than two (2) candidates are found to have received the highest and an equal number of votes for the same office or if two (2) or more candidates are found to have received the second highest and an equal number of votes for the same office, the election shall be determined by lot in ***the*** [~~such~~] manner [~~as~~] the ***commission*** [~~board~~] directs, in the presence of not less than three (3) other persons.

(5) The certificate of election for a judicial office shall be issued to the candidate receiving the highest number of votes, except that if two (2) or more candidates are found to have received the highest and an equal number of votes for the same office, the election shall be determined by lot in ***the*** [~~such~~] manner [~~as~~] the ***commission*** [~~board~~] directs, in the presence of not less than three (3) other persons.

Section 104. KRS 119.205 is amended to read as follows:

(1) Any person who makes or offers to make an expenditure to any person, either to vote or withhold his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.

(2) Any person who solicits, accepts, or receives any [~~such~~] expenditure as payment or consideration for his vote, or the withholding of his vote, or to vote for or against any candidate or public question at an election shall be guilty of a Class D felony.

(3) For purposes of this section, "expenditure" means any of the following when intended as payment or consideration for a vote, or the withholding of a vote, for or against any candidate or public question:

(a) A payment, distribution, loan, advance, deposit, or gift of money or anything of value; or

(b) A contract, promise, or agreement, express or implied, whether or not legally enforceable, to make a payment, distribution, loan, advance, deposit, or gift of money or anything of value.

"Expenditure," as used in this section, shall not include the distribution of materials bearing the name, likeness, or other identification of a candidate, political party, committee, or organization, or position on a public question and not intended as payment or consideration for a vote, or the withholding of a vote, for or against any candidate or public question.

(4) Any candidate or committee, or any person on his behalf, who pays any person, including campaign workers, for transporting voters to the polls on the day of the election, shall make all payments by check. All payments, regardless of amount, shall be reported to the ***Kentucky Election Commission*** [~~Registry of Election Finance~~] in the manner that the ***commission*** [~~Registry~~] shall provide by administrative regulation. Any person who knowingly violates any requirement of this subsection shall be guilty of a Class B misdemeanor.

(5) In addition to the above provisions, a person may be convicted of a violation of this section pursuant to KRS 502.020.

Section 105. KRS 119.245 is amended to read as follows:

Any member of the ***Kentucky Election Commission*** [~~State Board of Elections~~] or of a county board of elections who willfully and knowingly violates any provision of the statutes relating to his duties, or fails to execute faithfully any of the duties imposed upon him by law, for which no other penalty is provided, shall be guilty of a Class B misdemeanor.

Section 106. KRS 119.255 is amended to read as follows:

Any person who, by threat of violence or in any other manner, intimidates or attempts to intimidate the election officers, the ***Kentucky Election Commission,*** [~~state board of elections~~] or a county board of elections in the performance of their duty and any persons who conspire together and go forth armed for the purpose of intimidating ***the*** [~~said~~] officers, shall be guilty of a Class D felony.

Section 107. KRS 119.305 is amended to read as follows:

Election officers shall give information of all infractions of the election laws to the grand jury, Commonwealth's attorney, Attorney General and the ***Kentucky Election Commission*** [~~registry of election finance~~]. The election officers shall cooperate in any investigation or prosecution of election law violations. When there is reason to fear that an offender will escape out of the county before indictment, any election officer may procure his immediate apprehension.

Section 108. KRS 120.185 is amended to read as follows:

(1) Any candidate who was voted for at a regular election for any of the offices to which KRS 120.155 applies may request a recount of the ballots by filing a petition so requesting, with the same court that petitions of contest are required to be filed with, within ten (10) days after the day of the election, or, if ***the*** [~~such~~] candidate is qualified to institute a contest proceeding under KRS 120.155, by including a request for a recount in his petition instituting the contest proceedings, but in the latter case the petition ***shall*** [~~must~~] be filed within ten (10) days after the day of the election. Any [~~such~~] candidate who is a contestee in a contest proceeding under KRS 120.155 may request a recount in his answer filed in the contest proceeding, but only if the answer is filed within ten (10) days after the day of election. If a request for a recount is made, the ***Kentucky Election Commission or the county board of elections, whichever would issue the certificate*** [~~election commissioners whose duty it is to issue certificates~~] of election shall be made ***a party*** [~~parties~~] defendant. The party requesting the recount ***shall*** [~~must~~] execute bond with approved surety for the costs of the recount, in an amount to be fixed by the Circuit Judge. Upon the bond being filed, the clerk shall immediately notify the Circuit Judge of the request and the filing of the bond, and the judge shall at once enter an order directing the voting machines, ballots, boxes, and all papers pertaining to the election to be transferred to the Circuit Court, and fix a day for the recount proceedings to begin. A copy of the order shall be served upon the parties or their counsel in the same manner as notices are required to be served, which shall be deemed sufficient notice of the proceeding. On the day fixed, the court shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and file and enter of record the results thereof, and direct the ***commission or county board, whichever would issue the certificate of*** election [~~commissioners whose duty it is to issue the certificates~~] to issue the same to the party entitled thereto as shown by the recount.

(2) Any party may appeal from the judgment to the Court of Appeals, in the same manner as provided in KRS 120.075, all of the provisions of which statute shall be applicable.

(3) If a proceeding for recount is asked and prosecuted in a contest proceeding, it shall not await the preparation or trial of the contest in the Circuit Court or in the Court of Appeals. The action of the courts shall be final, concluding the parties as to the question of a recount of the ballots, and certificates shall then be issued to the parties entitled thereto.

Section 109. KRS 120.195 is amended to read as follows:

(1) No application to contest the election of a Governor, Lieutenant Governor, or member of the General Assembly shall be heard unless written notice, signed by the party contesting, is given. The notice shall state the grounds of the contest, and none other shall afterwards be heard as coming from that party, but the contestee may make defense without giving counternotice.

(2) In the case of the Governor or Lieutenant Governor, the notice ***shall*** [~~must~~] be given within thirty (30) days after the final action of the ***Kentucky Election Commission*** [~~State Board of Elections~~]. In the case of a member of the General Assembly, the notice ***shall*** [~~must~~] be given within fifteen (15) days after the final action of the county board of ***elections*** [~~election commissioners~~] or the ***Kentucky Election Commission*** [~~State Board of Elections~~], whichever canvasses the returns.

(3) Immediately after the notice, either party may proceed to take proof by depositions, under the same rules and regulations that govern the taking of depositions in actions in equity, except that no commission shall be required for taking a deposition out of the state. The depositions shall be sealed up by the officer taking them, and directed to the clerk of the Senate or clerk of the House, as the case may require. The depositions properly taken shall be read as evidence before the board or branch of the General Assembly having jurisdiction of the case, and ***the*** [~~such~~] board or branch may call for and hear other proof. The taking of depositions to be used before a board or branch of the General Assembly shall close ten (10) days before the next meeting of the General Assembly, or, if in session when the notice is given, when the taking is ordered to close.

(4) The costs of the proceeding shall be adjudged against the unsuccessful party, and a certificate thereof shall be given by the clerk of the Senate or the clerk of the House, as the case requires. A judgment for the costs may be obtained after five (5) days' notice in a Circuit Court.

Section 110. KRS 120.280 is amended to read as follows:

(1) Any elector who was qualified to and did vote on any constitutional convention, constitutional amendment, or statewide public question submitted to the voters of the state for their ratification or rejection may contest the election or demand a recount of the ballots by filing a petition, not more than fifteen (15) days after the official canvass and the announcement of the vote for the state by the ***Kentucky Election Commission*** [~~State Board of Elections~~], with the clerk of the Franklin Circuit Court, which court shall have exclusive jurisdiction to hear and determine all matters in such cases. The petition shall set forth the grounds of the contest. The contestant may file with the clerk of the Franklin Circuit Court and the Secretary of State a notice of his intention to contest the election before the announcement of the official count by the ***Kentucky Election Commission*** [~~State Board of Elections~~] and thereupon the Secretary of State shall forthwith notify all the county boards of ***elections*** [~~election commissioners~~] in the counties involved in the contest to hold the ballots cast at the election on the question subject to the order of the Franklin Circuit Court. The notice shall be served by the Secretary of State by mailing a true and certified copy of the notice of contest, and the order to hold the ballots subject to the order of the court, by certified mail, return receipt requested, to the sheriffs of the counties in question, and the sheriffs shall forthwith acknowledge receipt thereof.

(2) The court shall, within five (5) days after the filing of the petition of contest, determine whether there are sufficient grounds stated to justify the contest, and shall thereupon require the contestants to give bonds for costs. All of the hearings relating to the contest shall be held in the courthouse of Franklin County.

(3) The clerk of the Franklin Circuit Court shall cause a notice of the contest to be published pursuant to KRS Chapter 424, setting out the substance or the grounds of contest alleged by the contestants.

(4) Any elector who participated in the election on the convention, amendment, or statewide public question may make himself a party as contestee in the action by filing his petition to be made a party not later than five (5) days after the contest is instituted, and by giving bond of the costs as required of the contestant. If no elector makes himself a party to the contest, the Commonwealth's attorney for the Franklin Circuit Court shall attend the trial of the cause, and he may file [~~such~~] motions and pleadings in the cause on behalf of the Commonwealth ***to*** [~~as will~~] insure a fair and honest determination of the contest.

(5) All laws relating to contested elections for state offices shall apply with equal force to contests of the character contemplated by this section, except as otherwise provided in this section and in KRS 120.290.

Section 111. KRS 121.130 is amended to read as follows:

(1) The ***commission*** [~~registry~~] shall take ***the*** [~~such~~] steps [~~as may be~~] necessary to furnish timely and adequate information to every candidate or prospective candidate for public office who becomes or is likely to become subject to the provisions of this chapter. The ***commission*** [~~registry~~] shall also take ***the*** [~~such~~] steps [~~as are~~] necessary to inform every treasurer and depository duly designated under this chapter of their actual obligations and responsibilities under this chapter.

(2) The ***commission*** [~~registry~~] shall take [~~such~~] steps to disseminate among the general public ***the*** [~~such~~] information [~~as may serve~~] to guide all persons who may become subject to the provisions of this chapter by reason of their participation in election campaigns or in the dissemination of political information, for the purpose of facilitating voluntary compliance with the provisions and purposes of this chapter.

Section 112. KRS 121.200 is amended to read as follows:

The ***commission*** [~~registry~~] is required by KRS ***121.120*** [~~121.015 and 121.110 to 121.200~~] to securely keep all reports filed for four (4) years. Duly certified reports shall be admissible as evidence in any state court.

Section 113. KRS 121.210 is amended to read as follows:

(1) Each candidate may designate one (1) central campaign committee. If so designated, the central campaign committee shall receive all reports made by any other campaign committee authorized in writing by the candidate to accept contributions or make expenditures for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his central campaign committee.

(2) Each statement or report which an authorized committee is required to file with or furnish to the ***commission*** [~~registry~~] shall, if that committee is not a central campaign committee, be furnished instead to the central campaign committee for the candidate on whose behalf that committee is, or is established for the purpose of, accepting contributions or making expenditures.

(3) Each central campaign committee shall receive all reports and statements filed with or furnished to it by other authorized committees, and shall consolidate and furnish the reports and statements to the ***commission*** [~~registry~~], together with its own reports and statements as prescribed by KRS 121.180.

(4) Campaign committees not authorized by, or which have been disavowed by the candidate, shall not include the name of the candidate as part of the committee's name and shall file the reports and statements with the ***commission*** [~~registry~~] as prescribed in KRS 121.180.

Section 114. KRS 121.230 is amended to read as follows:

(1) No state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall use ***the*** [~~such~~] funds other than in support of the party's candidates in a general election and for the administrative costs of maintaining a political party headquarters.

(2) Each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall deposit ***the*** [~~such~~] funds in a bank account separate from any account in which other funds of the political party are maintained. All expenditures from ***the*** [~~such~~] remitted funds shall be by check. A copy of each cancelled check written on the account of funds remitted under KRS 141.071 to 141.073 shall be retained by the state or local governing authority of the political party for a period of not less than four (4) years.

(3) The designated official of each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall maintain a current record of the receipts, balance and expenditures of the funds so remitted. In addition, the official shall, within thirty (30) days after each general election, forward to the ***Kentucky Election Commission*** [~~Registry of Election Finance~~] a report of:

(a) The unexpended and unobligated balance of ***the*** [~~such~~] remitted funds; and

(b) An itemized listing of each expenditure authorized, incurred, or made from ***the*** [~~such~~] remitted funds, indicating the amount, date, and purpose of each expenditure, regardless of the amount, and the name, address, and occupation of each person to whom an expenditure of fifty dollars ($50) or more was made, since the date of the last report.

(4) The reports required by subsection (3) of this section shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the ***commission*** [~~registry~~].

(5) The ***commission*** [~~Registry of Election Finance~~] shall annually audit the accounts and records of receipts and expenditures of funds remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073 and shall report the results of each audit to the General Assembly. In the course of ***the*** [~~such~~] audits, the ***commission*** [~~registry~~] or its authorized agents may ascertain the amount of ***the*** [~~such~~] remitted funds on deposit in the separate bank account, required by subsection (2) of this section, of the political party audited and may audit the account on the books of the bank. No bank shall be liable for making available to the ***commission*** [~~registry~~] any of the information required under this section.

Section 115. KRS 132.120 is amended to read as follows:

(1) The Secretary of State shall certify to the county clerk of each county, not less than twenty (20) days before the next general election, the substance of the act or the parts of the act that are to be voted upon, and the county clerk shall have the same, as certified by the Secretary of State, appear before the voters. The elector shall designate his vote by a "Yes" or "No" vote. The votes cast for and against the measure shall be counted, canvassed, and certified to the ***Kentucky Election Commission*** [~~State Board of Elections~~] in the same manner as the votes upon constitutional amendments.

(2) If it is found that a majority of votes cast on the measure are in favor thereof, the act or the part of the act voted upon shall become effective. The result of the vote shall be published by the Secretary of State pursuant to KRS Chapter 424. The expense of the publications required by this section and by KRS 132.110 shall be paid as the expense of other publications that the Secretary of State is required to make in connection with elections.

Section 116. KRS 177.770 is amended to read as follows:

The [~~Said~~] election shall be conducted in conjunction with the regular elections otherwise provided by law to be held on the same day, by the same election officers, and at the same polling places. The votes cast in favor of and against KRS 177.700 to 177.820 shall be canvassed and certified to the ***Kentucky Election Commission*** [~~State Board of Elections~~] as in the case of votes cast in the election of officers of the state at large. If it be found that a majority of the votes cast on the question were in favor of KRS 177.700 to 177.820, the ***commission*** [~~State Board of Elections~~] shall so certify to the Governor and the Governor shall proclaim that KRS 177.700 to 177.820 has been approved and is in effect.

Section 117. KRS 213.141 is amended to read as follows:

(1) The cabinet shall prescribe by regulation a fee not to exceed five dollars ($5), to be paid for certified copies of certificates or records, or for a search of the files or records when no copy is made, or for copies or information provided for research, statistical, or administrative purposes. One dollar ($1) of the birth certificate fee shall be used by the Cabinet for Human Resources for the sole purpose of contracting for

the operation of private, not-for-profit, self-help groups for parents who want to prevent or cease physical, sexual, or mental abuse of their children.

(2) Fees collected under this section by the state registrar shall be used to help defray the cost of administering the system of vital statistics.

(3) No fee or compensation shall be allowed or paid for furnishing certificates of birth or death required in support of any claim against the government for compensation, insurance, back pay, or other allowances or benefits for any person who has at any time served as a member of the Army, Navy, Marine Corps, or Air Force of the United States.

(4) The cabinet shall notify the ***Kentucky Election Commission*** [~~State Board of Elections~~] monthly of the name, address, birthdate, sex, race, and Social Security number of residents of the Commonwealth who died during the previous month. This data shall include only those persons who were over the age of eighteen (18) years at the date of death. No fee or compensation shall be allowed for furnishing these lists.

Section 118. KRS 524.130 is amended to read as follows:

(1) Except as provided in KRS 341.470 and subsection (2) of this section, a person is guilty of unlawful practice of law when, without a license issued by the Supreme Court, he engages in the practice of law, as defined by rule of the Supreme Court ***or when he practices law before a judge to whose election campaign he made a contribution of any amount***.

(2) A licensed nonresident attorney in good standing, although not licensed in Kentucky, is not guilty of unlawful practice if, in accordance with rules adopted by the Supreme Court, he practices law under specific authorization of a court.

(3) Unlawful practice of law is a Class B misdemeanor.

Section 119. The following KRS section is repealed:

121.110 Registry of Election Finance — Membership — Terms — Meetings — Compensation.

Section 120. The balance a candidate has in his campaign account as of December 31, 1992, shall not be subject to the limitations of subsection (20) of Section 26 of this Act and may be used for future campaign expenses.

Section 121. The provisions of Section 15 of this Act shall first apply to the filing of notifications and declarations for Governor and Lieutenant Governor for the statewide primary of 1995.

Section 122. The terms of the members of the State Board of Elections and the Registry of Election Finance serving at the time of the enactment of this Act or who shall be appointed prior to June 30, 1992, shall expire on June 30, 1992.

Section 123. The provisions of Section 26 and Section 119 of this Act relating to limitations on contributions and contributions to election campaigns of judicial candidates who are elected, respectively, shall first apply to elections held after January 1, 1993.

Section 124. The provisions of Section 25 of this Act shall first apply to any appointment to any state office or position made by gubernatorial appointment or any contract with the Commonwealth awarded during the term of office of the Governor elected at the November 1995 election. Any restriction on the receipt of an appointment or contract by the provisions of KRS 121.056 as it existed prior to its amendment by Section 25 of this Act shall remain operative for the term of office of the Governor elected at the November 1991 election.

Section 125. Whereas the deadlines for nominating and appointing the initial members of the Kentucky Election Commission require action prior to the normal effective date of legislation enacted at the 1992 Regular Session of the General Assembly, an emergency is declared to exist and Sections 42 and 122 of this Act shall become effective upon the passage of this Act and its approval by the Governor. The provisions of all other sections of this Act shall become effective July 1, 1992.

The Committee Substitute to **SB 221** is as follows:

SB 221, AN ACT relating to the regulation of the conduct and financing of elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 121A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a qualifying slate of candidates;

(4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of Section 5 of this Act;

(5) "Qualifying slate of candidates" means any slate of candidates of a political party or any independent nominees for Governor and Lieutenant Governor whose names are qualified to appear jointly on a primary or runoff primary election ballot, or candidates who have filed a notification and declaration pursuant to Section 14 of this Act who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount. "Qualifying slate of candidates," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner;

(6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to Section 14 of this Act, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates for Governor and Lieutenant Governor shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be

for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;

(8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election to the offices of Governor and Lieutenant Governor authorized by the campaign committee treasurer or other authorized individual;

(9) "Committee" includes the following:

(a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates for nomination or election to the offices of Governor and Lieutenant Governor;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, political parties, or issues of public importance, and which functions on a regular basis throughout the year; and

(d) An executive committee of a political party;

(10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars ($100) shall be reported to the registry;

(11) (a) "Contribution" means any:

1. Payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;

2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;

3. Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services;

4. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization;

5. Expenditure in connection with any other activity undertaken independently of activities of a slate of candidates, of a committee, or of a contributing organization made or furnished for the purpose of influencing the results of an election.

(b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;

2. Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars ($300); or

3. A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; and

(12) "Knowingly" means with respect to conduct or to a circumstance described by a statute defining an offense that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

SECTION 2. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the registry.

(2) The registry shall distribute transfers for the matching of qualifying contributions to a qualifying slate of candidates for Governor and Lieutenant Governor as provided in Section 8 of this Act. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose.

(3) The registry shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each qualifying slate of candidates for qualifying contributions.

(4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of six (6) years.

(5) All slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations, and fundraisers for slated candidates who are registered pursuant to KRS 121.170(2), shall report all contributions and expenditures to the registry not less than every thirty (30) days following the formation and registration of the committee or registration of the fundraiser and not less than every fourteen (14) days during the fifty-six (56) days immediately preceding the primary election and the fifty-six (56) days immediately preceding the regular election of a year in which a Governor and Lieutenant Governor are elected, in lieu of the reporting provisions of KRS 121.180(3)(a), (b), and (c). Slated candidates participating in a runoff primary and registered fundraisers for slated candidates in a runoff primary shall report all contributions and expenditures to the registry fourteen (14) days before the runoff primary. All slated candidates and registered fundraisers for slated candidates shall make a report to the registry not later than thirty (30) days following any election in which they participate and shall submit additional reports every thirty (30) days thereafter until all financial obligations of the slate have been fulfilled and the candidate campaign account has been closed in lieu of the reporting provisions of KRS 121.180(4). All reports required by this subsection shall include all contributions deposited into and all expenditures paid from the candidate campaign account as of the close of business on the last day of the reporting period.

(6) After each primary, each runoff primary, and each regular election in a year in which a Governor and Lieutenant Governor are elected, the registry shall conduct a thorough examination and audit of the

contributions to and campaign expenditures by any campaign committee of each slate of candidates and issue a separate report on each campaign committee.

(7) The registry shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) A qualifying slate of candidates for Governor and Lieutenant Governor that receives transfers from the fund may make campaign expenditures which, in the aggregate, including the expenditure of transfers from the fund, shall not exceed one million eight hundred thousand dollars ($1,800,000) in connection with a primary election campaign and one million eight hundred thousand dollars ($1,800,000) in connection with a regular election campaign, subject to the provisions of subsections (4) and (5) of Section 8 of this Act, and three hundred thousand dollars ($300,000) in connection with a runoff primary campaign.

(2) The expenditure limit amounts established in subsection (1) of this section shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

(3) No qualifying slate of candidates for Governor and Lieutenant Governor that receives a transfer from the fund or that is otherwise subject to expenditure limitations shall exceed the expenditure limitations of subsection (1) of this section through an additional reported or unreported expenditure by any person, committee, or contributing organization which does not qualify as an "independent expenditure" as defined in KRS 121.150(1).

(4) A slate of candidates for Governor and Lieutenant Governor that has filed a statement of intent to accept transfers from the fund and abide by the maximum expenditure limit that was not rescinded pursuant to subsection (4) of Section 4 of this Act may receive contributions from permanent committees which, in the aggregate, shall not exceed twenty-five percent (25%) of the qualifying contributions received by the slate of candidates in any one (1) election. A slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide by the maximum expenditure limit or one that has rescinded a statement of intent to accept transfers from the fund pursuant to subsection (4) of Section 4 of this Act may receive contributions from permanent committees which, in the aggregate, shall not exceed twenty-five percent (25%) of the qualifying contributions received by the slate of candidates in any one (1) election up to a maximum of one hundred fifty thousand dollars ($150,000) in any one (1) election.

(5) No slate of candidates for Governor and Lieutenant Governor shall knowingly accept any other campaign contribution during the thirty (30) days immediately preceding a primary or regular election and during the fourteen (14) days immediately preceding a runoff primary except:

(a) A qualifying slate of candidates that has elected to become eligible for fund transfers or who may in the future elect to become eligible for fund transfers shall be released from expenditure limitations following a certification by the registry pursuant to subsection (4) or (5) of Section 8 of this Act that a slate of candidates that has not elected to become eligible for fund transfers has received contributions or made expenditures in excess of the expenditure limits provided in subsection (1) of this section; or

(b) The matching ratio of fund transfers established in subsection (2)(c) of Section 6 of this Act has been reduced by the registry pursuant to subsection (3) of Section 8 of this Act. If the registry reduces the matching ratio of fund transfers, a qualifying slate of candidates that has elected to become eligible for fund transfers or that may in the future elect to become eligible for fund transfers, may accept aggregate qualifying contributions which, when added to the maximum threshold qualifying amount established in subsection (2)(c) of Section 6 of this Act and the amount equal to the reduced matching ratio of fund transfers shall not exceed the expenditure limit established in subsection (1) of this section unless a qualifying

slate of candidates has been released from expenditure limitations pursuant to subsection (4) or (5) of Section 8 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) Each slate of candidates for Governor and Lieutenant Governor shall file with the registry a statement of intent to accept or to reject a transfer from the election campaign fund. The statement shall be filed not later than the deadline for filing nomination papers.

(2) A qualifying slate of candidates that intends to accept a transfer shall swear that the slate and the slate's authorized agents have complied with and will continue to comply with applicable contribution and expenditure limits.

(3) A slate of candidates shall designate in the statement of intent whether the slate will accept or reject a transfer in either the primary or the regular election. A qualifying slate of candidates that receives a transfer from the fund in either the primary or regular election shall be bound by the contribution and expenditure limits of Sections 3 and 5 of this Act throughout the campaign. A slate of candidates that rejects expenditure limitations in a primary shall not be eligible to receive a transfer from the fund in a runoff primary or the regular election. A slate of candidates that accepts expenditure limitations in a primary shall not reject expenditure limitations in a regular election.

(4) (a) Prior to the payment by the registry of either a primary election transfer or a regular election transfer, a slate of candidates may rescind its statement of acceptance by filing a notice rescinding its acceptance not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.

(b) A slate of candidates may rescind its statement of rejection if it has not received contributions or made expenditures in excess of the expenditure limit established by subsection (1) of Section 3 of this Act by filing a notice rescinding its rejection not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.

SECTION 5. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) A slate of candidates that has filed a statement of intent to accept transfers from the fund and abide by the maximum expenditure limit which was not rescinded pursuant to subsection (4) of Section 4 of this Act shall not knowingly accept a contribution from a natural person, permanent committee, executive committee of a political party, or contributing organization of more than five hundred dollars ($500) in any one (1) election. Except for independent expenditures, as defined in KRS 121.150(1), no natural person, permanent committee, executive committee of a political party, or contributing organization shall knowingly make a contribution of more than five hundred dollars ($500) in any one (1) election to a slate of candidates that has filed a statement of intent to accept transfers from the fund and abide by the maximum expenditure limit which was not rescinded.

(2) A slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide by the maximum expenditure limit or one that has rescinded a statement of intent to accept transfers from the fund pursuant to subsection (4) of Section 4 of this Act shall not knowingly accept a contribution of more than one hundred dollars ($100) in any one (1) election from a natural person, permanent committee, executive committee of a political party, or contributing organization. A slate of candidates that has accepted a contribution in excess of one hundred dollars ($100) that later rejects expenditure limitations or rescinds its acceptance of expenditure limitations shall refund to the contributor the amount of a contribution in excess of one hundred dollars ($100). Except for independent expenditures, as defined in KRS 121.150(1), no natural person, permanent committee, executive committee of a political party, or contributing organization shall knowingly make a contribution of more than one hundred dollars ($100) in any one (1) election to a slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide

by the maximum expenditure limit or one that has rescinded a statement of intent to accept transfers from the fund.

(3) No slate of candidates shall knowingly accept any cash contribution from a natural person, permanent committee, executive committee of a political party, or contributing organization. No natural person, permanent committee, executive committee of a political party, or contributing organization shall knowingly make a cash contribution to a slate of candidates.

SECTION 6. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) In order to become a qualifying slate of candidates for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(2) The registry shall immediately review the request of a slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A statement of intent accepting maximum expenditure limitations;

(b) A copy of the slate's nomination papers;

(c) The financial reports filed by or on behalf of the slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio. The threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor that elects to be eligible to receive a transfer from the fund in a primary election shall be six hundred thousand dollars ($600,000) in qualifying contributions. The minimum threshold qualifying amount for a slate of candidates for Governor and Lieutenant Governor in a regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a general election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district. No transfer from the fund shall be made for qualifying contributions which a slate of candidates may receive in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to subsection (4) or (5) of Section 8 of this Act. The threshold qualifying amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election; and

(d) Any other information reasonably necessary that is required by the registry.

(3) The registry shall certify whether a slate of candidates is eligible to receive a primary election transfer no later than seven (7) calendar days after the slate submits the required documentation.

(4) The registry shall certify whether a slate of candidates is eligible to receive a regular election transfer not later than seven (7) calendar days after the slate submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(5) A separate determination and certification shall be made for a primary and a regular election.

(6) The certification issued by the registry shall indicate:

(a) Whether a slate of candidates is eligible to receive a transfer; and

(b) The amount of fund transfers the slate of candidates is eligible to receive based on the amount of qualifying contributions that the slate has received at the time that it requests a transfer eligibility certification.

(7) A slate of candidates may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election at the times and in the manner which the registry shall prescribe by administrative regulation.

(8) If a slate of candidates that has filed a statement of intent to accept a transfer is not eligible to receive a transfer, the certification shall:

(a) State the reasons why the slate of candidates is not eligible to receive a transfer; and,

(b) What action, if any, the slate of candidates may take to qualify for a transfer.

(9) A slate of candidates may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.

(10) A slate of candidates denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

(11) No threshold qualifying amount shall be required for a slate of candidates participating in a runoff primary. A qualifying slate of candidates shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the qualifying slate of candidates received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a qualifying slate of candidates was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).

(12) No qualifying slate of candidates seeking its party's nomination for Governor and Lieutenant Governor shall be eligible to receive transfers from the fund in a primary election unless at least one (1) additional slate of candidates seeking the same party's nomination for Governor and Lieutenant Governor in the primary election has received and deposited in its candidate campaign account funds in an amount not less than the threshold qualifying amount for the primary election as established in subsection (2)(c) of Section 6 of this Act. No qualifying slate of candidates seeking election to the offices of Governor and Lieutenant Governor in a regular election shall be eligible to receive transfers from the fund unless at least one (1) additional slate of candidates seeking election to the offices of Governor and Lieutenant Governor in the regular election has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount for the regular election as established in subsection (2)(c) of Section 6 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) All transfers received from the fund by a qualifying slate of candidates and all contributions or personal resources of any slate of candidates to be used for campaign expenditures shall be deposited in the candidate campaign account.

(2) For each deposit in excess of one hundred dollars ($100) made in the account of any slate of candidates for Governor and Lieutenant Governor, there shall be retained by the campaign treasurer a short statement, in the form prescribed by the registry, showing:

(a) The amount of each contribution or amount of personal resources deposited;

(b) The date each contribution was received or each amount of personal resources was made available, and;

(c) The name, address, and, in the case of individuals, occupation and employer of each contributor and the spouse of the contributor, and, if a contribution is made from the personal resources of the slate of candidates, the banks and account numbers from which the funds were transferred. The occupation listed for each contributor shall be specific. A general classification, such as "businessman," shall be insufficient. If the contributor or the spouse of the contributor is self-employed, the name under which he is doing business shall be listed.

(3) The slate of candidates shall designate in writing, to be filed with the registry, not more than three (3) individuals who shall be authorized, in addition to the slate, to withdraw funds from the candidate campaign account.

(4) No individual authorized to make withdrawals from the candidate campaign account shall pay any amount out of the account for goods or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe disbursements to persons, the name, address, occupation, and employer of each person, and the date and the amount disbursed. These invoices shall be preserved by the slate of candidates and made available for reasonable inspection and auditing by employees of the registry.

SECTION 8. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) If the registry certifies that a qualifying slate of candidates is eligible to receive a transfer from the fund, the slate may submit a transfer entitlement voucher to the registry, complying with the procedures of subsection (7) of this section. A transfer entitlement voucher may document total qualifying contributions equal to six hundred thousand dollars ($600,000) for a primary election and not less than three hundred thousand dollars ($300,000) but not more than six hundred thousand dollars ($600,000) for a regular election for receipt of a fund transfer in an amount equal to twice the amount of qualifying contributions documented. A qualifying slate may submit multiple transfer entitlement vouchers as additional qualifying contributions are received in a regular election, but the maximum amount of fund transfers a slate may receive in a primary or regular election shall not exceed twice the amount of the maximum threshold qualifying amount, subject to the provisions of subsections (4) and (5) of this section.

(2) The fund transfer which a qualifying slate of candidates for Governor and Lieutenant Governor in a runoff primary may receive shall be three hundred thousand dollars ($300,000).

(3) The fund transfer amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment annually, beginning in 1996, and in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election. If the registry makes a finding of fact, after a public hearing of which all slates of candidates for Governor and Lieutenant Governor shall be notified, that the existing appropriations in the fund are insufficient to cover the anticipated fund transfers, the registry shall reduce the matching ratio to the ratio the registry determines so as not to exceed the amount of the fund. If the matching ratio is reduced for a primary election, it shall be applied retroactively to all transfers made to qualifying slates of candidates in the primary election. If the matching ratio is reduced for a regular election, it shall be applied retroactively to all transfers made to qualifying slates of candidates in the regular election.

(4) (a) If the registry makes a finding of fact, after a public hearing of which all slates of candidates for Governor and Lieutenant Governor shall be notified, that in the course of a primary election, runoff primary election, or regular election campaign a slate of candidates for Governor and Lieutenant Governor that has not accepted the provisions of this chapter has received contributions or made expenditures in

excess of the expenditure limit as provided in subsection (1) of Section 3 of this Act, the registry shall certify that those slates of candidates that have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers shall be released from expenditure limitations. Slates of candidates released from expenditure limitations in a primary or regular election shall continue to be eligible to receive transfers from the fund. A slate of candidates that is released from expenditure limitations in a runoff primary shall not be eligible for transfers from the fund in excess of three hundred thousand dollars ($300,000), but shall be eligible to accept qualifying contributions for the runoff primary;

(b) The registry shall conduct a public hearing within three (3) days after any report submitted to the registry by a campaign committee of a slate of candidates indicates that the slate of candidates has, or may have, received contributions or made expenditures in excess of the expenditure limits as provided in subsection (1) of Section 3 of this Act. The registry shall issue a ruling not later than seven (7) days after the public hearing; and

(c) A public hearing shall be conducted within three (3) days upon petition to the registry by a slate of candidates that, based upon its knowledge and belief, another slate of candidates has, or may have, received contributions in excess of the expenditure limitations as provided in subsection (1) of Section 3 of this Act. The registry shall issue a ruling not later than seven (7) days after the public hearing.

(5) Nothing in this section shall prevent any slate of candidates from notifying the registry in writing that its campaign committee has received contributions or made expenditures in excess of the expenditure limitations as provided in subsection (1) of Section 3 of this Act. In that case, no public hearing shall be held and the registry shall certify that those slates of candidates who have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers for that election shall be released from expenditure limitations for that election and shall continue to be eligible to receive transfers from the fund if qualified by law.

(6) A slate of candidates shall establish a separate candidate campaign account for each primary, runoff primary, and regular election in which it participates. The unexpended balance of contributions and fund transfers in a candidate campaign account of a slate of candidates which remains after all financial obligations of the particular election for which the account is established have been satisfied shall be forwarded to the registry for deposit in the fund when the account is closed. The payment to the fund shall be made not later than ten (10) working days after the candidate campaign account for a particular election is closed. Funds in the candidate campaign account of a slate of candidates shall be expended only for expenses incurred in the particular election for which the account is established and shall not be used to pay expenses incurred in any other election or for any other purpose.

(7) To receive fund transfers for which it is eligible, each qualifying slate of candidates shall submit to the registry at the times and in the form and manner the registry may require, a transfer entitlement voucher. The voucher shall include the full name of all persons making a contribution to the campaign committee of the slate of candidates together with the date, the exact amount of the contribution, the specific address of the contributor, the congressional district in which the contributor resides, the occupation and employer of the contributor and the spouse of the contributor, or if the contributor or the spouse of contributor is self-employed, the name under which he is doing business.

(8) Within three (3) working days of the receipt of the voucher, the registry shall:

(a) Make a determination, according to the procedures the registry may establish by administrative regulation, whether each contribution enumerated on the voucher is consistent with the provisions of this chapter;

(b) Certify for payment to the qualifying slate of candidates the amount of fund transfer for which it is eligible; and

(c) Promptly upon certification, issue a warrant on the fund for a transfer to the qualifying slate of candidates or its authorized treasurer in the amount certified by the registry.

(9) For the purpose of financing primary election campaigns, the registry shall make no transfer to a qualifying slate of candidates entitled to transfers from the fund earlier than January 1 of a year in which the Governor and Lieutenant Governor are elected.

(10) Transfers from the fund for a regular election campaign shall not be made earlier than the date the results of the primary election preceding the regular election of a year in which the Governor and Lieutenant Governor are elected are certified. If a qualifying slate of candidates is unopposed in a primary election, or has no opposition that has received contributions of not less than the threshold qualifying amount for the primary election, the registry shall make no transfer to that slate from the fund for the primary election. If a qualifying slate of candidates is unopposed in a regular election, or has no opposition that has received contributions of not less than the minimum threshold qualifying amount for the regular election, the registry shall make no transfer to that slate from the fund for the regular election.

(11) If a vacancy occurs in a slate of candidates before the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the registry not later than the deadline for printing primary election ballots, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a vacancy occurs in a slate of candidates after the ballots are printed for the primary election, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the registry prior to the primary election, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a replacement for a vacant candidate is made after the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, notices informing the voters of the change in the composition of the slate shall be posted at each precinct polling place.

(12) The provisions of KRS 118.105 shall apply to vacancies occurring in the nomination of a qualifying slate of candidates.

(13) If during the course of a primary or regular election, a qualifying slate of candidates withdraws, is otherwise removed from the ballot, becomes the only slate of candidates for a party nomination or election on the ballot, or if both candidates on the slate die, the registry shall certify and pay on vouchers previously submitted by that slate, but any subsequent vouchers submitted by that slate shall not be certified nor shall transfers be made.

(14) The registry shall not certify any contribution made to a qualifying slate of candidates entitled to transfers from the fund, which, when added to other contributions made by the same contributor to the slate in connection with the regular election and in connection with the general election, violates the provisions of Section 5 of this Act or KRS 121.150.

(15) The registry shall perform a continuing audit of all slates of candidates for Governor and Lieutenant Governor to ensure that they are in compliance with this chapter and the election laws of the Commonwealth.

SECTION 9. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

Any qualifying slate of candidates that receives a transfer from the fund shall comply with and be subject to all campaign finance requirements contained in KRS Chapter 121 to the extent that the requirements are not inconsistent with the provisions of this chapter.

SECTION 10. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) Any qualifying slate of candidates that elects to receive a transfer from the fund shall participate preceding any primary, runoff primary, if one is held, and regular election in which it participates, in a year in which the Governor and Lieutenant Governor are elected, in a reasonable number of televised candidate forums or debates managed and designed by the Kentucky Authority for Educational Television in a manner to ensure participation by all slates of candidates. However, a qualifying slate of candidates that elects to receive a transfer from the fund shall not be required to participate in more than six (6) televised candidate forums or debates preceding a primary, one (1) preceding a runoff primary, or six (6) preceding a regular election. The authority shall make the televised candidate forums or debates available at no charge to all other media. The authority shall promulgate administrative regulations necessary to implement the requirements of this subsection.

(2) All programming decisions concerning televised candidate forums or debates shall be the ultimate responsibility of the Kentucky Authority for Educational Television. The authority shall maintain editorial integrity in accordance with accepted public broadcasting principles. No appointed or elected state officeholder or any other person shall directly or indirectly attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any person assigned responsibility for candidate forum or debate programming decisions no alternative but to comply with the wishes of the officeholder or person. Persons assigned candidate forum or debate programming decisions shall be free of obligation or the appearance of obligation to any interest other than the public right to know. It shall not be considered a violation of this subsection for an office holder or other person to seek remedies in a court of law to any programming decision he considers to be an abridgement of his legal rights.

(3) The registry shall promulgate administrative regulations which prescribe the grounds for which failure of a qualifying slate of candidates to participate in any of the televised candidate forums or debates required by subsection (1) of this section shall be excused and the process by which a qualifying slate of candidates shall inform the registry of the grounds for its failure to participate.

(4) If the registry determines that failure of a qualifying slate of candidates to participate in any televised candidate forum or debate required by subsection (1) of this section was not justified, no fund transfer shall be made to the slate for that election if it shall be otherwise qualified to receive one. If the registry determines that a slate that has already received a fund transfer has unjustifiably failed to participate in any required televised candidate forum or debate, the slate's campaign committee shall reimburse the fund the amount of the transfer within thirty (30) days of the date on which the registry's determination becomes final. If the slate's campaign committee has not reimbursed the fund the amount of the transfer within the thirty (30) day period, the slate shall be personally liable to the fund for the transfer amount to be reimbursed. A slate of candidates may appeal an adverse ruling by the registry within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

SECTION 11. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

No slate of candidates or individual who receives any transfer from the fund, or to whom any portion of any transfer received from the fund is paid, shall knowingly use, or authorize the use of, the transfer or portion thereof for any purpose other than to defray the qualified campaign expenses with respect to which the payment was made or to knowingly expend the funds on any item or service otherwise prohibited under this chapter or the laws of this Commonwealth.

SECTION 12. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) (a) Any slate of candidates, authorized treasurer, or any other individual who knowingly violates the expenditure limitations imposed by Section 3 of this Act or the contribution limitations imposed by

Section 5 of this Act, knowingly misuses any transfers from the fund in violation of Section 11 of this Act, or knowingly falsifies any record required to be submitted or retained by the slate under this chapter shall be guilty of a Class D felony, and shall be disqualified from being appointed to or becoming a candidate for public office, or holding public office, for a period of five (5) years from the date of final judicial determination of guilt.

(b) In addition to the penalties set out in this subsection, pursuant to Section 151 of the Constitution of Kentucky, any slate of candidates nominated or elected prior to a final judicial determination that the slate has knowingly committed any of the violations contained in paragraph (a) of this subsection shall, upon that final judicial determination, forfeit the nomination or election, and, if the slate of candidates has assumed office, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve.

(c) In addition to the penalties set out in this subsection, if any slate of candidates, authorized treasurer, or any other individual acting in complicity with the slate or treasurer is convicted of knowingly violating the provisions of this subsection, the court shall order the defendant, the slate, and the campaign committee treasurer to immediately refund all fund transfers to the election campaign fund and shall enter a judgment lien against the slate and its campaign committee for that purpose.

(2) Any appointed or elected state officeholder or any other person who knowingly violates the provisions of subsection (2) of Section 10 of this Act, or of any administrative regulation promulgated by the Kentucky Authority for Educational Television under subsection (1) of Section 10 of this Act, shall be guilty of a Class D felony. In the event a slate of candidates has assumed office, upon a final judicial determination of guilt, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve.

(3) Any individual who knowingly violates any other provisions of Sections 1 to 11 of this Act, or of any administrative regulation promulgated by the registry under Sections 1 to 11 of this Act, shall be guilty of a Class D felony. In the event a slate of candidates has assumed office, upon a final judicial determination of guilt, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve.

(4) If the registry determines that probable cause exists to believe a violation of this chapter has knowingly occurred, the registry shall immediately transmit its determination to the appropriate Commonwealth's attorney and the Attorney General.

SECTION 13. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

This chapter shall be known as the "Public Financing Campaign Act."

SECTION 14. A NEW SECTION OF KRS CHAPTER 118 IS CREATED TO READ AS FOLLOWS:

A candidate for Governor filing a notification and declaration pursuant to KRS 118.125 shall list on the notification and declaration the name of the candidate for Lieutenant Governor who shall jointly appear on the ballot with him. The slate of candidates for Governor and Lieutenant Governor shall be nominated jointly by the casting by each voter of a single vote applicable to both offices. No candidate for Governor or Lieutenant Governor shall appear individually on the ballot for the nomination he is seeking.

Section 15. KRS 121.015 is amended to read as follows:

As used in ***this chapter*** [~~KRS 121.110 to 121.200, and 121.990~~]:

(1) "Registry," means the Kentucky Registry of Election Finance;

(2) "Election[~~,~~]" means any primary, ***runoff primary,*** regular, or special election to fill vacancies ***regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election***;

(3) "Committee[~~,~~]" ***includes*** [~~means one (1) of~~] the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates ***or slates of candidates*** for nomination or election to any state, county, city, or district office;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question ***which appears on the ballot*** if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, ***political issues committee, inaugural committee,*** or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose political activity which may include support of or opposition to selected candidates, ***slates of candidates,*** political parties, or issues of public importance, and which functions on a regular basis throughout the year; [~~or~~]

(d) An executive committee of a political party; ***and***

(e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by ***the*** [~~such~~] groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair[~~,~~]" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to[~~,~~] a political office in this state[~~,~~] designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution[~~,~~]" means any:

(a) Payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, ***a slate of candidates, its authorized agent, a committee, or contributing organization*** [~~or political committee~~]. As used in this subsection, "loan" shall include a guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a [~~political~~] committee, ***contributing organization,*** candidate, ***slate of candidates,*** or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum ***in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds*** [~~in excess of~~] the contribution ***limits*** [~~limit~~] provided in ***Section 5 of this Act or*** KRS 121.150[~~(5)~~];

(b) Payment by any person other than the candidate, his authorized treasurer, ***a slate of candidates, its authorized treasurer, a committee, or a contributing organization*** [~~or political committees~~], of compensation for the personal services of another person which are rendered to a ***candidate, slate of candidates, committee, or contributing organization, or for inauguration activities*** [~~candidate's campaign~~];

(c) Goods, advertising, or services ***with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are*** furnished to a ***candidate, slate of candidates, committee, or contributing organization or for inauguration activities*** [~~candidate's campaign~~] without charge, or at a rate which is less than the rate normally charged for ***the*** [~~such~~] goods or services;

(d) Payment by any person other than ***a*** [~~the~~] candidate, his authorized treasurer, ***a slate of candidates, its authorized treasurer, a committee, or contributing organization*** [~~or political committees~~] for any goods[~~,~~] or services ***with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are*** utilized ***by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities*** [~~in a candidate's campaign~~]; ***or***

(e) Expenditure in connection with any other activity undertaken independently of ***the activities of a candidate, slate of candidates, committee, or contributing organization*** [~~the candidate's campaign~~] made or furnished for the purpose of influencing the results of an election; [~~or~~]

(7)[~~(f)~~] Notwithstanding ***the*** foregoing meanings of ***"contribution,"*** [~~"contributions,"~~] the word shall not be construed to include:

(a)[~~1.~~] Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate***, committee, or contributing organization***; ***or***

(b)[~~2.~~] A loan of money by any financial institution doing business in Kentucky made in accordance with applicable banking laws and regulations and in the ordinary course of business; [~~and~~]

(8)[~~(7)~~] "Candidate" means any person who has received contributions or made expenditures, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures with a view to bringing about his nomination or election to public office, except federal office***;***

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to Section 14 of this Act, received contributions or made expenditures, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means with respect to conduct or to a circumstance described by a statute defining an offense that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists; and

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for public office.

SECTION 16. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) No elected official or any of his appointees shall knowingly award any nonbid contract with the governing authority which the elected official serves to any entity whose officers or employees, or the spouses of officers or employees, knowingly contributed in excess of five thousand dollars ($5,000) in the aggregate in any one (1) election to the election campaign of the elected official during the term of office following the election campaign in which the contributions were made.

(2) No entity whose officers or employees, or the spouses of officers or employees, have knowingly contributed in excess of five thousand dollars ($5,000) in the aggregate in any one (1) election to the election campaign of any elected official shall knowingly receive any nonbid contract with the governing authority

which the elected official serves during the term of office following the election campaign in which the contributions were made.

(3) No elected official or any of his appointees shall knowingly award any nonbid contract, lease, or appointment to any office or board with the governing authority which the elected official serves to any person who has acted as a fundraiser by directly soliciting contributions to the election campaign of the elected official who secured in excess of thirty thousand dollars ($30,000) in contributions in the aggregate in any one (1) election for the election campaign, or to his immediate family, employer, or employee, during the term of office following the election campaign in which the contributions were made, nor shall any award of a nonbid contract or lease with the governing authority knowingly be made to the entity in which the person has an interest during the term of office following the election campaign in which the contributions were made.

(4) No person who has acted as a fundraiser by directly soliciting contributions for the election campaign of an elected official who secured in excess of thirty thousand dollars ($30,000) in contributions in the aggregate in any one (1) election for the election campaign, nor his immediate family, employer, or employee, shall knowingly receive any nonbid contract, lease, or appointment to any office or board with the governing authority which the elected official serves during the term of office following the election campaign in which the contributions were made, nor shall an entity in which the person has an interest knowingly receive a nonbid contract or lease with the governing authority during the term of office following the election campaign in which the contributions were made.

(5) For the purposes of this section, "entity" means any person, sole proprietorship, partnership, unincorporated association, unincorporated company, joint stock company, public service corporation, professional services corporation, corporation, or any other business organization.

(6) For the purposes of this section, "immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(7) For the purposes of this section, "governing authority" means the elected legislative, executive, and judicial officers charged with the administration of the affairs of the political subdivision which they serve.

Section 17. KRS 45A.110 is amended to read as follows:

(1) A written determination of responsibility of a bidder or offeror shall be made and it shall be made in accordance with ***administrative*** regulations ***promulgated*** [~~issued~~] by the secretary of the Finance and Administration Cabinet. A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted. The failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such a bidder or offeror.

(2) ***A written determination of responsibility of a bidder or offeror shall not be made until the bidder or offeror provides the secretary of the Finance and Administration Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to a bidder or offeror will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.***

(3) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the Division of State Purchasing or the purchasing agency administering the contract without prior written consent of the bidder or offeror.

Section 18. KRS 45A.115 is amended to read as follows:

The secretary of the Finance and Administration Cabinet may provide for prequalification of suppliers as responsible prospective contractors for particular types of supplies, services, and construction. ***The secretary of the Finance and Administration Cabinet shall not prequalify a supplier as a responsible prospective contractor until the supplier provides the secretary with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the supplier will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.*** Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified suppliers. Prequalification shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

Section 19. KRS 45A.395 is amended to read as follows:

(1) A written determination of responsibility of a bidder or offeror shall be made, based on a reasonable inquiry conducted by the local public agency. The unreasonable failure of a bidder or offeror to promptly supply information upon request may be grounds for a determination of nonresponsibility of such bidder or offeror.

(2) ***A written determination of responsibility of a bidder or offeror shall not be made until the bidder or offeror provides the local public agency with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the bidder or offeror will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.***

(3) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the local public agency without prior written consent of the bidder or offeror.

Section 20. KRS 45A.400 is amended to read as follows:

Suppliers may be prequalified as responsible prospective contractors for particular types of supplies, services and construction. ***No supplier shall be prequalified as a responsible prospective contractor until the supplier provides the local public agency with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the supplier will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.*** Solicitation mailing lists of potential contractors of such supplies, services and construction shall include, but shall not be limited to, such prequalified prospective contractors. Prequalification shall not foreclose a written determination:

(1) Between the time of bid opening or receipt of offers in the making of an award that a prequalified prospective contractor is not responsible; or

(2) That a prospective contractor who is not prequalified at the time of bid opening or receipt of offers is responsible.

SECTION 21. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

No person shall be qualified to hold any appointive state office or position, made by gubernatorial appointment, until the person provides the commissioner of the Department of Personnel with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that his appointment to a state office or position will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.

Section 22. KRS 176.150 is amended to read as follows:

(1) No ***applicant*** [~~bidder~~] shall be given a certificate of eligibility unless his financial statement and the investigation made by the department show that he possesses net current assets or working capital sufficient in the judgment of the department to render it probable that he can satisfactorily execute his contracts and meet obligations therein incurred. All applications for certificates shall expressly authorize the department to obtain all information which it deems pertinent with respect to the financial status, assets, and liabilities of the applicant from any persons having business transactions with the applicant, and shall expressly authorize all ***those*** [~~such~~] persons to furnish any [~~such~~] information requested from them by the department.

(2) ***No applicant shall be given a certificate of eligibility until the applicant provides the secretary of the Transportation Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the applicant will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware or should have been aware that his conduct is of that nature or that the circumstance exists.***

(3) Certificates of eligibility shall be issued without reference to the residence of applicants and the ***administrative*** [~~rules and~~] regulations regarding the issuance of certificates shall apply equally to residents and nonresidents. A certificate of eligibility shall not be denied to any applicant upon the sole issue of nationality or residence.

(4)[~~(3)~~] When the applicant is a foreign corporation the application shall be accompanied by a certificate from the Secretary of State that such corporation is authorized to do business in the state in which it is incorporated.

Section 23. KRS 121.045 is amended to read as follows:

No person [~~other than a corporation,~~] and no agent of ***any*** [~~such~~] person on his behalf, shall contribute, either directly or indirectly, any money, service, or other thing of value towards the nomination or election of any state, county, city, or district officer who, in his official capacity, is required by law to perform any duties peculiar to ***the*** [~~such~~] person not common to the general public, or to supervise, regulate, or control in any manner the affairs of ***the*** [~~such~~] person, or to perform any duty in assessing the property of ***the*** [~~such~~] person for taxation. No [~~such~~] person, and no agent of ***any*** [~~such~~] person on his behalf, shall pay, promise, loan, or become liable in any way for any money or other valuable thing on behalf of any candidate ***or slate of candidates*** for any [~~such~~] office at any election, primary, or nominating convention held in this state. No attorney or other person shall accept employment and compensation from any [~~such~~] person with the understanding or agreement, either direct or implied, that he will contribute to any candidate ***or slate of candidates*** for any [~~such~~] office, or on his behalf, any part or all of ***his*** [~~such~~] compensation, towards the nomination or election of ***any*** [~~such~~] candidate ***or slate of candidates*** .

Section 24. KRS 121.056 is amended to read as follows:

(1) No person who contributes more than ***the maximum legal contribution established by Section 5 of this Act in any one (1) election*** [~~four thousand dollars ($4,000)~~] to a ***slate of candidates for Governor and Lieutenant Governor that is elected to office*** [~~gubernatorial candidate~~] shall hold any appointive state office or position, which shall be made by gubernatorial appointment, during the term of office following the campaign in which the contribution shall be made.

(2) No person who has contributed more than ***the maximum legal contribution established by Section 5 of this Act in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office*** [~~four thousand dollars ($4,000)~~] or any entity in which such a person has a substantial interest shall have any contract with the Commonwealth of Kentucky ***during the term of office following the campaign in which the contributions shall be made*** unless ***the*** [~~said~~] contract shall be attained by competitive bidding and the person or entity shall have the lowest and best bid.

(a) "Substantial interest" means the person making the contribution owns or controls ten percent (10%) or more of an entity or a member of the person's immediate family owns or controls ten percent (10%) of ***the*** [~~such~~] entity or the person and his immediate family together own or control ten percent (10%) or more of ***the*** [~~such~~] entity.

(b) "Immediate family" means the spouse of the person, the parent of the person or spouse, or the child of the person or spouse.

(3) No person shall give or conspire to contribute money or property to any other person for the purpose of making a campaign contribution, in violation of this section[~~, if the money or property contributed together with any other contribution made by such person would exceed the limit on individual campaign contributions~~]. The restrictions established by subsections (1) and (2) of this section to a person who shall contribute in excess of ***the maximum legal contribution established by Section 5 of this Act in any one (1) election*** [~~four thousand dollars ($4,000)~~] as provided by those subsections, shall apply to a person who makes a total contribution in excess of ***the maximum legal contribution established by Section 5 of this Act in any one (1) election to a slate of candidates for Governor and Lieutenant Governor that is elected to office*** [~~four thousand dollars ($4,000)~~] as provided by this subsection.

Section 25. KRS 121.150 is amended to read as follows:

(1) No contribution of money or other thing of value, nor obligation therefor, shall ***knowingly*** be made or received, and no expenditure of money or other thing of value[~~,~~] shall ***knowingly*** be made or incurred, directly or indirectly, other than an "independent expenditure," to support ***inauguration activities or to support*** or defeat a candidate***, slate of candidates, constitutional amendment, or public question which will appear on the ballot*** in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate***, slate of candidates,*** or registered committee. As used in this section, "independent expenditure" means one (1) made for a communication which expressly advocates the election or defeat of a clearly identified candidate ***or slate of candidates, or the passage or defeat of a constitutional amendment or public question which will appear on the ballot*** and which is not made with any direct or indirect cooperation, consent, request, [~~or~~] suggestion***,*** or consultation involving a candidate***, slate of candidates, campaign*** [~~or his authorized~~] committee***, political issues committee,*** or agent. Any person making an "independent expenditure," as defined ***in this subsection*** [~~herein~~], ***shall*** [~~must~~] report these expenditures[~~,~~] when ***the expenditures exceed five*** [~~he exceeds three~~] hundred dollars ***($500) in the aggregate in any one (1) election*** [~~($300) per calendar year~~], on forms provided by the registry.

(2) ***Except as provided in KRS 121.180(10),*** the solicitation from and contributions by candidates***, slates of candidates, campaign committees, political issues committees, permanent committees,*** and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; ***except*** [~~provided~~] that it shall not be construed as a violation of this section for a candidate ***or slate of candidates*** to continue regular personal contributions to religious, civic, or charitable groups[~~, of which he is a member or to which he has been a regular contributor for more than six (6) months~~].

(3) No candidate, ***slate of candidates,*** committee, or contributing organization, nor anyone acting on their behalf, shall ***knowingly*** accept any anonymous contribution in excess of ***fifty dollars ($50)*** [~~one hundred dollars ($100)~~], and all ***anonymous*** [~~such~~] contributions in excess of ***fifty dollars ($50)*** [~~one hundred dollars ($100)~~] shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state ***and be transferred to the election campaign fund established by Section 2 of this Act. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall knowingly accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by Section 2 of this Act.***

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall ***knowingly*** accept a cash contribution in excess of one hundred dollars ($100).

(5) No candidate, ***slate of candidates,*** committee, contributing organization, nor anyone on their behalf, shall ***knowingly*** accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, [~~or~~] ***campaign*** committee***, political issues committee, nor*** [~~or~~] anyone acting ***on their behalf*** [~~for the candidate~~], shall ***knowingly*** accept a contribution of more than ***one*** [~~four~~] thousand dollars ***($1,000)*** [~~($4,000)~~] from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, ***his campaign*** [~~or~~] committee, ***nor*** [~~or~~] anyone acting ***on their behalf*** [~~for the candidate~~] shall ***knowingly*** accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee[~~,~~] or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall ***knowingly*** contribute more than ***one*** [~~four~~] thousand dollars ***($1,000)*** [~~($4,000)~~] to any one (1) candidate, ***campaign committee, political issues committee, nor*** [~~or~~] anyone acting ***on their behalf*** [~~for the candidate~~], in any one (1) election; except that no person shall ***knowingly*** contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall ***knowingly*** contribute more than two hundred dollars ($200) to any one (1) school board candidate, ***his campaign*** committee, ***nor*** [~~or~~] anyone acting ***on their behalf*** [~~for the candidate~~], in any one (1) election. ***Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of Section 5 of this Act.***

(7) Except for permanent committees organized as of January 1, 1988, permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall ***knowingly*** contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) ***No person shall knowingly contribute funds to a permanent committee, political issues committee, or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.***

(10) No person shall contribute more than four thousand dollars ($4,000) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall ***knowingly*** contribute more than ***two thousand five hundred dollars ($2,500)*** [~~six thousand dollars ($6,000)~~] to the state executive committee of a political party and ***its*** [~~their~~] subdivisions and affiliates in any one (1) year. ***Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.***

(12)[~~(11)~~] No person shall ***knowingly*** make a ***payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall knowingly accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf*** [~~contribution in the name of another person, and no person shall knowingly accept a contribution made by one (1) person in the name of another person~~].

(13)[~~(12)~~] No ***candidates running as a slate*** [~~candidate~~] for the ***offices*** [~~office~~] of Governor ***and Lieutenant Governor*** shall ***knowingly*** make ***combined total*** [~~a~~] personal ***loans*** [~~loan~~] to ***their*** [~~his~~] committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall ***knowingly*** lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall ***knowingly*** lend to his committee more than ten thousand dollars ($10,000) ***in any one (1) election.***

(14)[~~(13)~~] No candidate ***or slate of candidates*** for nomination to any state, county, city, or district office, nor ***their campaign committees*** [~~committee~~], nor anyone on their behalf, shall ***knowingly*** solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate ***or slate of candidates*** shall ***knowingly*** contribute for primary election expenses after the date of the primary.

(15)[~~(14)~~] ***No slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall knowingly solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall knowingly contribute for runoff primary election expenses after the date of the runoff primary.***

(16) No candidate ***or slate of candidates*** for any state, county, city, or district office at a ***regular*** [~~general~~] election, nor ***their campaign committees*** [~~committee~~], nor anyone on their behalf, shall ***knowingly*** solicit or accept contributions for ***regular*** [~~general~~] election expenses after the date of the ***regular*** [~~general~~] election. No person other than the candidate ***or slate of candidates*** shall ***knowingly*** contribute for ***regular*** [~~general~~] election expenses after the date of the ***regular*** [~~general~~] election.

(17) No candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall knowingly solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall knowingly contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (13) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by Section 2 of this Act for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19)[~~(15)~~] The provisions of subsections ***(14)*** [~~(13)~~] and ***(16)*** [~~(14)~~] of this section shall apply only to those candidates in a primary or ***regular*** election which shall be conducted subsequent to January 1, 1989. ***The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to the effective date of this Act.***

(20)[~~(16)~~] No ***slate of candidates*** [~~candidate~~] for Governor ***and Lieutenant Governor*** or ***their*** [~~the~~] immediate ***families shall knowingly*** [~~family thereof may~~] loan any money, service, or other thing of value to ***their*** [~~his~~] campaign, and all [~~such~~] moneys, [~~or~~] services***, or other things of value which are loaned*** shall be deemed a contribution, which may not be recovered by the ***slate of candidates*** [~~candidate~~], except to the extent of a ***combined*** total of fifty thousand dollars ($50,000).

(21)[~~(17)~~] No candidate, ***slate of candidates,*** committee, except a political issues committee, or contributing organization, nor anyone on ***their*** [~~his or its~~] behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(22)[~~(18)~~] Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(23) In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the thirty (30) days immediately preceding a primary or general election except as provided in subsection (5) of Section 3 of this Act.

(24) No candidate, slate of candidates, or committee, nor anyone on their behalf, shall knowingly solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

Section 26. KRS 121.160 is amended to read as follows:

(1) Each candidate ***or slate of candidates*** shall designate a campaign treasurer to act as ***their*** [~~his~~] agent at the time and at the office with which ***they file*** [~~he files~~] as a candidate ***or slate of candidates*** on a duplicate form prescribed and furnished by the registry and until this requirement is met the candidate ***or slate of candidates*** shall be listed as ***their*** [~~his~~] own treasurer and accountable as such. The candidate ***or slate of candidates*** may appoint ***themselves*** [~~himself~~] or any registered voter in Kentucky as his campaign treasurer. The office with which the candidate ***or slate of candidates*** is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's ***or slate's*** campaign treasurer and shall attach the original to the candidate's ***or slate's*** filing papers. The office with which the candidate ***or slate of candidates*** files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank for all campaign funds and deposit all contributions in that depository;

(b) Keep detailed and exact accounts of contributions in general and by name, address, age[~~,~~] if under legal voting age, ***the employer of each contributor and the spouse of the contributor, or if the contributor or the spouse of the contributor is self-employed, the name under which he is doing business,*** and occupation where the contribution exceeds three hundred dollars ($300); the occupation listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures on behalf of a candidate ***or slate of candidates.*** Any expenditure in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address, and occupation of every person or firm to whom made, and shall list the date and amount of ***the*** [~~such~~] expenditure and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of ***six (6)*** [~~four (4)~~] years from the date he files his last report under KRS 121.180***(3)***[~~(2)~~](a); and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate ***or slate of candidates*** may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer, the candidate ***or slate of candidates*** shall within three (3) days after receiving notice thereof by certified mail, return receipt requested, appoint a successor and shall file his name and address with the registry. The candidate***, or slate*** shall be accountable as ***their*** [~~his~~] own campaign treasurer if ***they fail*** [~~he fails~~] to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate ***or slate of candidates***, but all reports ***shall*** [~~must~~] be made separately for each individual candidate ***or slate***.

(6) The candidate ***or slate of candidates*** may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and ***shall*** [~~must~~] comply with the reporting provisions of KRS ***121.180*** [~~121.015 and 121.110 to 121.200~~] and ***administrative regulations promulgated*** [~~those adopted~~] by the registry.

Section 27. KRS 121.170 is amended to read as follows:

(1) Any committee organized under any provisions of this chapter shall register with the registry, by filing official notice of intention at the time of organization, giving names, [~~and~~] addresses, and positions of the officers of the organization and designating the candidate or candidates, ***slate of candidates***, or question it is organized to support or oppose on forms prescribed by the registry. The name of the committee shall reasonably identify to the public the sponsorship and purpose of the committee. The forms filed with the registry shall require the registrant to clearly identify the specific purpose, sponsorship, and source from which the committee originates; and the registry shall refuse to allow filing by any committee until this requirement has been satisfied.

(2) ***Any person who acts as a fundraiser by directly soliciting contributions for an election campaign of a candidate or slate of candidates for elected office shall register with the registry when he raises in excess of three thousand dollars ($3,000) in any one (1) election for the campaign committee by filing official notice giving his name, address, occupation, employer or, if he is self-employed, the name under which he is doing business, and all candidates or slates of candidates for whom he is soliciting on forms prescribed by the registry. A registered fundraiser shall comply with the campaign finance reporting requirements of KRS 121.180(3), (4), and (5) and subsection (5) of Section 2 of this Act.***

(3) All provisions of KRS ***121.160 and Section 7 of this Act*** [~~121.015 and 121.110 to 121.200~~] governing the duties and responsibilities of a candidate, ***slate of candidates***, or campaign treasurer shall apply to a registered committee, ***except a federally registered out-of-state permanent committee, and a person acting as a campaign fundraiser***.

(4)[~~(3)~~] The chairman of a committee and the campaign treasurer shall be separate persons.

(5) A permanent committee shall pay an administrative fee of two hundred dollars ($200) to the registry at the time it files its registration papers. A permanent committee shall pay an administrative fee of two hundred dollars ($200) to the registry no later than the last day of the first calendar quarter following the year in which it registers with the registry and each succeeding year thereafter until the permanent committee terminates. The amount of administrative fees received by the registry from permanent committees shall be transferred to the State Treasurer for deposit in the election campaign fund established by Section 2 of this Act.

(6) Any federally registered out-of-state permanent committee that contributes to a Kentucky candidate shall:

(a) File with the registry a copy of its federal registration (Federal Election Commission Form 1 - Committee Registration Form);

(b) File with the registry a copy of the Federal Election Commission finance report when a contribution is made to a Kentucky candidate; and

(c) Contribute not more than the maximum amount permitted for a permanent committee to make under Kentucky law to any candidate for any office in this Commonwealth.

(7) Notwithstanding any provision of law to the contrary, a contribution made by a federally registered permanent committee to any candidate for any office in this Commonwealth that complies with the provisions of 2 U.S.C. 441b, 11 C.F.R. 104.10, 11 C.F.R. 106.6, and 11 C.F.R. 114.1-114.12 regarding limitations on contributions by corporations shall be deemed to comply with the campaign finance laws of this Commonwealth prohibiting corporate contributions to candidates.

Section 28. KRS 121.180 is amended to read as follows:

(1) *(a) Any candidate, slate of candidates, or campaign treasurer, or political issues committee shall be exempt from filing any pre-election finance reports required by subsection (3) of this section or subsection (5) of Section 2 of this Act, whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman or treasurer files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.*

(b) Any candidate, slate of candidates, campaign treasurer, or political issues committee shall be exempt from filing any campaign finance reports required by subsection (3) of this section or subsection (5) of Section 2 of this Act, whichever is applicable, if the candidate, slate of candidates, campaign treasurer, or political issues committee chairman or treasurer files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of two hundred fifty dollars ($250) in any one (1) election. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate, slate of candidates, campaign treasurer, or political issues committee chairman or treasurer shall file a request for exemption not later than the deadline for filing nomination papers and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and it shall be bound by its terms unless it rescinds it in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate, slate of candidates, campaign treasurer, or political issues committee chairman or treasurer shall file a request for exemption not later than ten (10) days after the date of the preceding primary election, or runoff primary, if one is held, and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date of the primary election, or runoff primary, if one is held. For a special election, a candidate, slate of candidates, or campaign treasurer shall file a request for exemption not later than ten (10) days after being nominated for a special election, and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made.

(d) Any candidate, slate of candidates, campaign treasurer, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a) or (b) of this subsection that accepts contributions or expends, or whose campaign treasurer accepts contributions or expends, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in addition to other penalties prescribed by law, in the case of a candidate or slate of candidates, upon a final determination that a violation occurred, be ineligible as a candidate or slate of candidates for the office sought, the nomination or election shall be void, and a vacancy shall be declared.

(2) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, ***the employer of each contributor and the spouse of the contributor or, if the contributor or the spouse of the contributor is self-employed, the name under which he is doing business,*** and occupation of each person or group contributing in excess of three hundred dollars ($300), the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name and address of each person to whom an expenditure is made in excess of ***twenty-five*** [~~fifty~~] dollars ***($25)*** [~~($50)~~], and the amount, date, and purpose of each expenditure. This report shall be made to the registry within thirty (30) days after the [~~regular~~] primary***, runoff primary if slates of candidates of that party participate,*** and ***regular*** [~~general~~] elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate ***or slate of candidates***, the name of the contributor and the sum shall be indicated on the committee report. The receipts and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. ***The*** [~~Such~~] separate report may be made a separate section within the report required, by this subsection, to be submitted within thirty (30) days after each general election.

(3)[~~(2)~~] ***Except for candidates or slates of candidates, campaign treasurers, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section,*** each campaign treasurer of ***a*** [~~an opposed~~] candidate***, slate of candidates, campaign committee, or political issues committee*** who ***accepts contributions*** [~~receives~~] or expends, expects to ***accept contributions*** [~~receive~~] or expend, or contracts to expend more than three thousand dollars ($3,000) ***in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election***, [~~campaign committee or political issues committee~~] shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received [~~by him~~] from any source, since the date of the last report, including the full name and address of each contributor, and the age if less than the legal voting age, ***the employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business,*** and occupation of each person or group contributing in excess of three hundred dollars ($300), ***to a candidate or political issues committee or in excess of one hundred dollars ($100) to a slate of candidates*** the amount contributed by each and the date of the contribution, whether the contribution was in cash, and a complete statement of all expenditures authorized, incurred, or made[~~, including "independent expenditures," as defined in KRS 121.150(1)~~]. The total amount of cash contributions received during the reporting period shall be listed as a separate item. The complete statement of expenditures shall include the name, address, and occupation of each person to whom an expenditure is made in excess of ***twenty-five*** [~~fifty~~] dollars ***($25)*** [~~($50)~~], and the amount, date, and purpose of each expenditure. Reports of all candidates, [~~and their~~] campaign ***committees, political issues committees, and registered fundraisers*** [~~committee~~] shall be made as follows:

(a) [~~Persons becoming~~] Candidates as defined in KRS 121.015***(8)***[~~(7)~~], [~~and~~] campaign committees***, political issues committees, and fundraisers*** which register in the year before the year an election in which the ***candidate or public question shall appear on the ballot*** [~~person or persons supported are to be candidates occurs~~], shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee ***or fundraiser***, and each calendar quarter thereafter, ending with the last calendar quarter of that year. [~~Such~~] Candidates, [~~and~~] committees***, and registered rundraisers*** shall make all reports required by this section during the year in which the election takes place;

(b) All candidates, [~~and their~~] campaign committees***, political issues committees, and registered fundraisers*** shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;

(c) All candidates, [~~and their~~] campaign committees***, political issues committees, and registered fundraisers*** shall make reports on the twelfth day preceding the date of the election; and

(d) All reports to the registry shall be in the hands of the registry or postmarked within five (5) days ***after*** [~~of~~] each filing deadline.

(4)[~~(3)~~ ~~(a)~~] All candidates, regardless of funds received or expended, [~~and their~~] campaign ***committees, political issues committees, and registered fundraisers*** [~~committee~~] shall make post-election reports within thirty (30) days after the election[~~, except as provided by KRS 83A.170 governing nonpartisan city elections and subsection (2) of KRS 83A.045. Pursuant to KRS 83A.170 and subsection (2) of KRS 83A.045, candidates shall be required to make post-election reports within thirty (30) days after the regular election in November if a primary election has not been held for that office~~].

[~~(b) Unopposed candidates for nonpartisan judicial office shall not be required to make any reports when a primary election has not been held for that office, but shall make reports required by subsections (2) and (8) of this section for the regular election in November.~~]

(5)[~~(4)~~] In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at ***the*** [~~such~~] events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, [~~and~~] occupation***, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business,*** and the amount purchased shall be reported to the registry. ***The*** [~~Such~~] lists shall be maintained by the campaign treasurer***, political issues committee treasurer, registered fundraiser,*** or other sponsor for inspection by the registry for ***six (6)*** [~~four (4)~~] years following the date of the election.

(6) (a)[~~(5)~~] Each permanent committee***, inaugural committee, or contributing organization*** shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, since the date of the last report, including the full name and address of each contributor, and the age if under the legal voting age, ***employer of each contributor and the spouse of the contributor or, if the contributor or the spouse of the contributor is self-employed, the name under which he is doing business,*** and occupation of each person or group contributing in excess of three hundred dollars ($300) and if in cash it shall be so stated.[~~, and~~] An aggregate amount of cash contributions shall also be reported, the amount contributed by each and the date of the contribution, and a complete statement of all expenditures authorized, incurred or made, including "independent expenditures[~~,~~]" as defined in KRS 121.150(1). This report shall be made ***by a permanent committee, inaugural committee, or contributing organization*** to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. ***A contributing organization shall file a report of contributions received and expenditures made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline; and***

(b) A permanent committee shall pay an administrative fee to the registry in an amount equal to five percent (5%) of the expenditures, including independent expenditures, the permanent committee makes in support of or opposition to all candidates or slates of candidates for office. The payment for the administrative fee shall accompany each report a permanent committee makes to the registry which documents expenditures in support of or defeat of any candidate or slate of candidates during the reporting period covered by the report. The amount of administrative fees received by the registry from permanent committees for each reporting period shall be transferred to the State Treasurer for deposit in the election campaign fund established by Section 2 of this Act.

(7)[~~(6)~~] If the final statement of ***a*** [~~an opposed~~] candidate***, campaign committee, or political issues committee*** shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed semiannually [~~by opposed candidates and annually by unopposed candidates~~], to be in the hands of the registry ***or*** postmarked within ten (10) days after April 15 and October 15 [~~for opposed candidates and October 15 for unopposed candidates~~], until the account shows no unexpended balance, continuing debts and obligations, expenditures, or deficit. All contributions shall be subject to KRS 121.150.

(8)[~~(7)~~] All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate***, slate of candidates,*** or committee with the county clerk in the county in which the candidate ***or persons running as a slate of candidates reside*** [~~resides~~] at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

[~~(8) If a candidate is unopposed in an election after the time prescribed by law for qualifying for nomination or election to the office, he shall not be required to file any pre-election reports required by KRS 121.015 and 121.110 to 121.200. The Secretary of State and each county clerk shall notify the registry of all unopposed candidates within their filing jurisdiction within ten (10) days of the filing deadline.~~]

(9) A candidate ***or slate of candidates*** is relieved of the duty personally to file reports and keep records of receipts and expenditures if the candidate ***or slate*** states in writing or on forms provided by the registry that:

(a) Within five (5) ***business*** days after personally receiving ***any*** contributions [~~in excess of three thousand dollars ($3,000)~~], the candidate ***or slate of candidates*** shall surrender possession of the [~~entire contribution or~~] contributions to the treasurer of ***their*** [~~his~~] principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's ***or slated candidates'*** personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the ***campaign*** [~~political~~] committee and shall not be cashed or redeemed by the candidate;

(b) The candidate ***or slate of candidates*** shall not make any unreimbursed expenditure for ***the*** [~~his~~] campaign, except that this paragraph does not preclude a candidate ***or slate*** from making an expenditure from personal funds to ***the*** [~~his~~] designated principal campaign committee, which [~~expenditure~~] shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate ***or slate of candidates*** complies with the conditions under which it was granted.

(10) No candidate***, slate of candidates, campaign committee, political issues*** [~~as defined in this section, nor any~~] committee [~~as defined in this section~~]***, or contributing organization*** shall use or permit the use of contributions or funds solicited or received for ***the*** [~~such~~] person or in support of ***or opposition to*** a public issue ***which will appear on the ballot*** to further the candidacy of ***the*** [~~such~~] person for a different public office, [~~or~~] to ***support or oppose*** [~~further~~] a different public issue***, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair.*** Any funds or contributions solicited or received by or on behalf of a candidate***, slate of candidates,*** or any committee, which has been organized in whole or in part to further any candidacy for the same person ***or to support or oppose the same public issue***, shall be deemed to have been solicited or received for the ***current*** candidacy ***or for the election on the public issue*** [~~for which he is then a candidate~~] if the funds or contributions are solicited or received at any time prior to the ***regular*** [~~general~~] election for which ***the candidate, slate of candidates, or public issue is on the ballot*** [~~he is a nominee and for thirty days (30) thereafter~~]***. Except as provided in subsection (6) of Section 8 of this Act,*** any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall***, in whole or in part,*** at the

election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the ***state or county*** executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain ***the*** [~~such~~] funds to further the same ***public*** [~~political~~] issue or to seek election to the same office ***or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.***

(11) Any publisher of newspapers or magazines, owner or lessor of billboards, a radio or television station or network, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material shall file with the registry a copy of the material or communication purchased by any person to support or oppose any slate of candidates or committee, which shall be provided by the purchaser for filing with the registry, and a copy of the receipt for the funds paid, and shall identify for the registry the person purchasing the services or material, and the source of the funds used to make the purchase if different than the purchaser. The information shall be reported to the registry not more than thirty (30) days after receiving the initial advertising or communications purchase for an election and every thirty (30) days thereafter if purchases are made in the ensuing period; except that reports of purchases shall be made to the registry every fourteen (14) days during the fifty-six (56) days before the primary and regular elections for Governor and Lieutenant Governor. The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

Section 29. KRS 121.220 is amended to read as follows:

(1) Each candidate***, slate of candidates,*** and each committee shall, before receiving any contributions or expending any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures made by the candidate***, slate of candidates,*** or committee. The candidate***, slate of candidates,*** or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate***, slate of candidates,*** or committee participates. Deputy campaign treasurers may make expenditures from secondary depositories but only from moneys which first have been deposited in the primary campaign depository. Only a financial institution authorized to transact business in Kentucky may be designated as a campaign depository. The candidate***, slate of candidates,*** or committee shall file the name and address of each primary and secondary depository so designated at the same time the candidate***, slate of candidates,*** or committee files the name of his or its campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or committee shall be deposited [~~prior to the end of the fifth business day following their receipt~~] in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." ***For each deposit, the campaign treasurer or deputy campaign treasurer shall retain*** a statement showing the full name, address, ***employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business,*** and occupation of each contributor of more than three hundred dollars ($300) ***and the amount contributed*** [~~shall be deposited together with a statement of the amount received~~]. Cash contributions shall be accompanied by the same receipt form. ***The campaign treasurer or deputy campaign treasurer for a slate of candidates or a slate's campaign committee shall comply with the requirements of subsection (6) of Section 8 of this Act.***

Section 30. KRS 121.990 is amended to read as follows:

(1) Any ***corporation or any officer, agent, attorney, or employee of a*** [~~public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such~~] corporation, who ***knowingly*** [~~willfully~~] violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be ***guilty of a Class D felony*** [~~imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year~~].

(2) [~~Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.~~

~~(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.~~

~~(4) Any attorney who willfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.~~]

(2)[~~(5)~~] Any corporation that ***knowingly*** [~~willfully~~] violates any of the provisions of subsection (1) of KRS 121.035***(1) or KRS 121.310(2)*** shall be fined not [~~less than five hundred dollars ($500) nor~~] more than ***ten*** [~~five~~] thousand dollars ***($10,000)*** [~~($5,000)~~] for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(3)[~~(6)~~] Any person who ***knowingly*** [~~willfully~~] violates any of the provisions of [~~subsection (2) of~~] KRS 121.035***(2), 121.045, 121.055, 121.150 to 121.230, 121.310(1), 121.320, or KRS Chapter 121A,*** shall, for each offense, be ***guilty of a Class D felony*** [~~fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.~~

~~(7) Any person who willfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.~~

~~(8) Any person who willfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.~~

~~(9) Any person who willfully violates any provision of KRS 121.110 to 121.200 shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both~~]. Violations ***of KRS 121.150 to 121.230 or KRS Chapter 121A*** shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication to support or defeat a candidate ***or slate of candidates*** without identification of sponsorship.

(4)[~~(10)~~] The nomination for, or election to, an office of any candidate ***or slate of candidates*** who ***knowingly*** [~~willfully~~] violates any provision of KRS ***121.150 to 121.220 or KRS Chapter 121A*** [~~121.110 to 121.200~~], or whose campaign treasurer ***knowingly*** [~~willfully~~] violates any provision of KRS ***121.150 to 121.220 or KRS Chapter 121A*** [~~121.110~~ ~~to~~ ~~121.200~~], with ***the knowledge of that candidate or slate of candidates*** [~~such candidate's knowledge~~], shall be void, ***and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve,*** and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, [~~or~~] any candidate ***or slate of candidates*** for the office sought to be declared vacant, or any qualified voter.

(5)[~~(11)~~] The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS ***121.056 and KRS 121.120*** [~~121.110~~] to ***121.230 and KRS Chapter 121A*** [~~121.200~~].

(6)[~~(12)~~] The Commonwealth's attorney for the county in which the candidate ***or slated candidates reside*** [~~resides~~] shall be the chief prosecutor upon receipt of a written request from the registry, shall prosecute any violator under this chapter ***or KRS Chapter 121A***, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(7)[~~(13)~~] Any officeholder who ***knowingly*** [~~willfully~~] violates the provisions of KRS 121.150***(12)*** [~~(11)~~] shall***, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve*** [~~be subject to removal from office by impeachment~~].

(8)[~~(14)~~] Prosecution for violation of any provision of this chapter ***or KRS Chapter 121A*** shall not be commenced after four (4) years have elapsed from the date of the violation. ***If*** [~~In the event~~] the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

[~~(15) Any person who willfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.~~

~~(16) Any corporation that willfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.~~

~~(17) Any person who willfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.~~]

(9)[~~(18)~~] ***Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.***

(10) Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(11) Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(12) Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(13) Any person who ***knowingly*** violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

(14)[~~(19)~~] Any person who ***knowingly*** fails to pay a civil penalty, assessed by the registry ***or a judicial panel pursuant to KRS 121.140*** for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.

(15) Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of subsection (1) of Section 16 of this Act shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(16) Any entity who knowingly receives a nonbid contract with a governing authority in violation of subsection (2) of Section 16 of this Act shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(17) Any elected official who knowingly awards or participates in awarding of an nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of subsection (3) of Section 16 of this Act shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(18) (a) Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of subsection (4) of Section 16 of this Act shall be guilty of a Class D felony;

(b) Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of subsection (4) of Section 16 of this Act shall be guilty of a Class D felony; and

(c) Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(19) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

Section 31. KRS 83A.045 is amended to read as follows:

(1) Except as provided in KRS 83A.047, partisan elections of city officers shall be governed by the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for party nomination to city office shall file his nomination papers with the county clerk of the county not less than one hundred nineteen (119) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(b) An independent candidate for nomination to city office shall not participate in a primary election, but shall file his nomination papers with the county clerk of the county not less than ninety-one (91) days before the day fixed by KRS Chapter 118 for holding a regular election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

(c) A candidate for city office who is defeated in a partisan primary election shall be ineligible as a candidate for the same office in the regular election. However, if a vacancy occurs in the party nomination for which he was an unsuccessful candidate in the primary election, his name may be placed on the voting machines for the regular election as a candidate of that party if he has been duly made the party nominee after the vacancy occurs, as provided in KRS 118.105.

(2) Except as provided in KRS 83A.047, nonpartisan elections of city officers shall be governed by KRS 83A.050, 83A.170, 83A.175, and the following provisions, regardless of the form of government or classification of the city:

(a) A candidate for city office shall file his nomination papers with the county clerk of the county not less than one hundred nineteen (119) days before the day fixed by KRS Chapter 118 for holding a primary election. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed;

(b) Any city of the fourth to sixth class may by ordinance provide that the nomination and election of candidates for city office in a nonpartisan election shall be conducted pursuant to the provisions of this subsection:

1. A city may forgo conducting a nonpartisan primary election for the nomination of candidates to city office, regardless of the number of candidates running for each office, and require all candidates to file their nomination papers with the county clerk of the county no less than ninety-one (91) days before the day fixed by KRS Chapter 118 for holding a regular election.

2. All nomination papers shall be filed no later than 4 p.m. local time when filed on the last day on which the papers are permitted to be filed.

3. If a city does not conduct a primary election pursuant to this subsection, the election of candidates to city office shall be governed by the provisions of this subsection, KRS 83A.175(2) to (6), and KRS Chapters 116 to 121.

4. [~~If a city does not conduct a primary election pursuant to this subsection, candidates for city office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.~~

~~5.~~] In the absence of a primary pursuant to this subsection, the number of candidates equal to the number of city offices to be filled who receive the highest number of votes cast in the regular election for each city office shall be elected.

5.[~~6.~~] Candidates shall be subject to all other applicable election laws pursuant to this chapter and KRS Chapters 116 to 121.

6.[~~7.~~] If a vacancy occurs in a candidacy for city office in any city which has not held a primary pursuant to this subsection after the expiration of time for filing nomination papers due to the death, incapacity, or withdrawal of a candidate, or if there are fewer candidates than there are offices to be filled, the vacancy in candidacy shall be filled in the following manner:

a. If the vacancy in candidacy occurs less than ninety-one (91) days but more than thirty (30) days prior to the regular election, candidates shall file petitions of nomination to fill the vacancy with the county clerk not less than thirty (30) days prior to the regular election.

b. If the vacancy in candidacy occurs less than thirty (30) days prior to the regular election, candidates shall not file petitions of nomination to fill the vacancy with the county clerk, but shall seek election by write-in vote. If no person is elected to the office by write-in vote at the regular election, the vacancy in office shall be filled temporarily by appointment by the officer or body designated by law to fill the appointment.

(c) A candidate for city office who is defeated in a nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election.

Section 32. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, by at least the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk or the Secretary of State as provided in KRS 83A.047, file with the county clerk a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk or the Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk or the Secretary of State shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office. [~~If, in accordance with the provisions of this section or KRS 83A.045(2)(b), a primary election has not been held, candidates for nonpartisan city~~

~~office shall not be required to make pre-election reports to the Registry of Election Finance pursuant to KRS 121.180, but shall be required to make post-election reports within thirty (30) days after the regular election in November.~~]

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk or the Secretary of State dies or notifies the clerk or the Secretary of State in writing, signed and properly notarized that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated, or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 33. KRS 83A.165 is amended to read as follows:

(1) A candidate running to fill the unexpired term of any city office shall file his nomination papers in accordance with the provisions of KRS 83A.045, 118.365, 118.375, and 83A.047.

(2) Vacancies in the office of mayor or city legislative body that are to be filled temporarily by appointment shall be governed by the provisions of KRS 83A.040 and Section 152 of the Kentucky Constitution.

(3) Vacancies in the office of mayor or city legislative body that are to be filled by partisan election shall be governed by the following provisions:

(a) Vacancies in candidacy shall be governed by KRS 118.105;

(b) Nominations for unexpired terms shall be governed by KRS 118.115 and Section 152 of the Kentucky Constitution; and

(c) Independent candidates filing to fill a vacancy shall be governed by KRS 118.375.

(4) Vacancies in the office of mayor or city legislative body that are to be filled by nonpartisan election shall be governed by the following provisions:

(a) If the vacancy occurs not less than one hundred thirty-four (134) days before a May primary, candidates to fill the vacancy shall be nominated at that primary in the manner prescribed in KRS 83A.170; and

(b) If the vacancy occurs on or after the one hundred thirty-fourth day before a May primary, the election to fill the unexpired term shall be held in the manner prescribed in Section 152 of the Kentucky Constitution; and

(c) Vacancies in candidacy in any city of the fourth to sixth class, that has not conducted a nonpartisan primary election shall be governed by the provisions of KRS 83A.045(2)(b)***6***[~~7~~].

Section 34. KRS 116.055 is amended to read as follows:

Before a person shall be qualified to vote in a primary election, he shall possess all the qualifications required of voters in a regular election. In addition, he shall be a registered member of the party in whose primary election he seeks to vote, and shall have been registered as a member of that party at the time of the preceding regular election, or, in the case of new registrations not involving a change of political affiliation made after the preceding regular election, have registered and remained registered as a member of that party. No person shall be allowed to vote for any party candidates ***or slates of candidates*** other than that of the party of which he is a registered member. The qualifications shall be determined as of the date of the primary, without regard to the qualifications or disqualifications as they may exist at the succeeding regular election, except that minors who will become eighteen (18) years of age on or before the day of the regular election shall be entitled to vote in the primary if otherwise qualified. However, any registered voter, whether registered as a member of a party or as an independent, shall be qualified to vote in primary elections for candidates listed in all nonpartisan races. ***Any voter eligible to vote in a primary election shall also be eligible to vote in a subsequent runoff primary if one shall be necessary.***

Section 35. KRS 117.085 is amended to read as follows:

(1) All requests for an application for an absentee ballot and all applications for an absentee ballot shall be transmitted only by mail or in person as specifically provided by this section. Except for qualified voters who apply pursuant to the requirements of KRS 117.075 and 117.077, and those who are incarcerated in jail but have yet to be convicted, no absentee ballots shall be mailed to an address within the county except

to those voters who regularly work outside the county during all hours the office of the county clerk is open. In the case of ballots returned by mail, the county clerk shall provide an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for an absentee ballot as provided in this section and who is properly registered as stated in his application. Application for an absentee ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the crime may, at any time not less than the close of normal business hours seven (7) days before the election, make application in person or by mail to the county clerk for an absentee ballot. All requests for an application for an absentee ballot and all applications for an absentee ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for an absentee ballot to the voter who appears in person to request the application, or shall mail the application to a voter who requests the application by mail. The application shall be restricted to use of the voter or the spouse, parents, or children of the voter;

(b) Residents of Kentucky who are members of the armed forces, [~~or~~] dependents of members of the armed forces, and overseas citizens, may apply for an absentee ballot by means of the federal post-card application. The application may be used to register, reregister, and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to the application form upon receipt; and

(c) Any member of the county board of elections, any precinct election officer appointed to serve in a precinct other than that in which he is registered, and any alternate precinct election officer may vote by absentee ballot. The application form for those persons shall be prescribed by the State Board of Elections and, in the case of application by precinct election officers, shall contain a verification of appointment signed by a member of the county board of elections. The applications shall be restricted to the use of the voter only.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the State Board of Elections, shall bear the seal of the county clerk, and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in ***the*** [~~said~~] precinct, and the voter's mailing address for an absentee ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (5) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application and qualifies to receive an absentee ballot, he shall mail to the voter an absentee ballot, two (2) official envelopes for returning the ballot, and instructions for voting. The county clerk shall complete a postal form for a certificate of mailing for ballots mailed within the fifty (50) states, and it shall be stamped by the postal service when the ballots are mailed.

(4) Absentee ballots which are requested prior to the printing of the ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of the printed ballots; and absentee ballots which are requested subsequent to the receipt of ***the*** [~~such~~] ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of the request.

(5) The clerk shall cause ballots to be printed fifty (50) days prior to each primary or general election ***and ten (10) days prior to each runoff primary.***

(6) The outer envelope shall bear the words "Absentee Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number,

and notice of penalty provided in KRS 117.995(5). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application and the postal form required by subsection (3) of this section for twenty-two (22) months after the election.

(7) Any person who has received an absentee ballot but who knows at least seven (7) days before the date of the election that he ***will*** [~~shall~~] be in the county on election day and who has not voted pursuant to the provisions of KRS 117.086 shall cancel his absentee ballot and vote in person. He shall return his absentee ballot to the county clerk's office no later than seven (7) days prior to the date of the election. Upon the return of the absentee ballot, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Canceled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent absentee ballots, and the voter may vote in the precinct in which he is properly registered.

Section 36. KRS 117.275 is amended to read as follows:

(1) At the count of the votes in any precinct, any candidate ***or slate of candidates*** and any representatives to witness and check the count of the votes therein, who are authorized to be appointed as is provided in subsection ***(7)***[~~(6)~~] of this section, shall be admitted and be permitted to be present and witness the count.

(2) As soon as the polls are closed, and the last voter has voted, the judges shall immediately lock and seal the operating lever, mechanism or other device of the voting equipment so that the voting and counting mechanism will be prevented from operation, and they shall sign a certificate stating:

(a) That the voting equipment has been locked against voting and sealed;

(b) The number of voters, as shown on the public counters;

(c) The number registered on the protective or accumulative counter or device, if any; and

(d) The number or other designation of the voting equipment, which certificate shall be returned by the judges of election to the officials authorized by law to receive it. The judges shall compare the number of voters, as shown by the counter of the voting equipment, with the number of those who have voted as shown by the protective or accumulative counter or device, if any.

(3) Where voting equipment is used which does not print the candidates' names, lever numbers, and total votes received on a general return sheet or record for that equipment, the procedure to be followed shall be: the judges, in the presence of the representatives mentioned in subsection (1) of this section, if any, and of all other persons who may be lawfully within the polling place, shall make visible the registering counters, and, for that purpose, shall unlock and open the doors, or other covering concealing the counters, giving full view of all the counter numbers. The judges shall, under the scrutiny of the representatives, and in the order of the offices as their titles are arranged on the machine, read and announce, in distinct tones, the results as shown by the counter numbers for each candidate ***or slate of candidates*** and for and against each question voted on. The counters shall not be read consecutively along the party rows or columns, but shall always be read along the office columns or rows, completing the canvass for each office or question before proceeding to the next. The vote as registered shall be entered by the judges, in ink, on quadruplicate return sheets, and also on a general return sheet and statement, all of which, after the canvass is completed, shall be signed by the election officers. The total votes cast for each candidate, ***and slate of candidates,*** and for and against each question, shall be entered on the general and quadruplicate return sheets and statement. The proclamation of the result of the votes cast shall be announced distinctly and audibly by one (1) of the judges, who shall read the name and the vote cast for each candidate, ***and slate of candidates,*** and the vote for and against each question submitted. During the proclamation, ample opportunity shall be given to any person lawfully present to compare the results so announced with the counter dials of the voting equipment,

and any necessary corrections shall be made by the judges, and the door or other cover of the voting equipment shall then be closed and locked.

(4) If any officer shall decline to sign the return, he shall state his reason in writing, and a copy thereof, signed by him, shall be enclosed with the return. Each of the return sheets shall be enclosed in an envelope, which shall be securely sealed, and each of the officers shall write his name across the fold of the envelope. One (1) of the quadruplicate return sheets, along with the general return sheet and the write-in roll, if any write-in votes were cast in the precinct, shall be directed to the county board of elections of the county in which the election is being held, one (1) to the county clerk of the county in which the election is being held and one (1) to the local governing body of each of the two (2) dominant political parties. The envelope shall have endorsed thereon a certificate of the election officers, stating the number of the machine, the precinct where it has been used, the number on the seal, and the number on the protective or accumulative counter or device at the close of the polls. Following the tabulation of all votes cast in the election, including absentee votes and write-in votes, the county board shall mail the tabulation sheets showing the results from each precinct to the State Board of Elections and the county clerk shall mail or deliver the precinct lists from each precinct to the State Board of Elections.

(5) ***In primary elections at which each party's slates of candidates seeking the nomination of their parties for Governor and Lieutenant Governor are voted on, the Secretary of State, upon receiving the certified results of voting from each county's precincts for those offices, shall determine whether a runoff primary shall be necessary for either or both parties pursuant to KRS 118.245. The Secretary of State shall, within twenty-four (24) hours of making his determination, inform the affected slates of candidates, the county clerks, the county boards of elections, the State Board of Elections, the Registry of Election Finance, and the news media of his determination, and the date of the runoff primary, which shall be subject to change if an election contest or vote recount shall be requested.***

(6) As soon as possible after the completion of the count, the two (2) judges shall return to the county board of elections the keys to the voting machine received and receipted for by them, and the county clerk in which the precinct is located shall have the voting machine properly boxed or securely covered and removed to a proper and secure place of storage.

(7)[~~(6)~~] In primary elections, each candidate***, slate of candidates,*** or group of candidates may designate to the county board of elections a representative to witness and check the vote count. In regular elections, the governing authority of each political party, each candidate for member of board of education, independent candidate, or independent ticket may designate a representative to the county board of elections to witness and check the vote count. The county board of elections shall authorize representatives of the news media to observe the taking of the tally of votes from the voting machine in each precinct in each primary, regular or special election.

(8)[~~(7)~~] If supplemental paper ballots have been approved, as provided in KRS 118.215, after the polls are closed, the precinct election officials shall stamp "Unused" on all supplemental paper ballots not used. The election officers shall string all used ballots' stubs upon a string provided for that purpose, and the stubs shall be placed in an envelope. The two (2) judges shall return to the county clerk's office the locked ballot box, all ballot stubs, spoiled ballots, and unused ballots at the same time as the tabulation of votes from the voting machine is delivered. The county clerk shall issue a receipt for the number of ballot stubs, unused ballots, spoiled ballots and the ballot box. The county board of elections, or its designee, shall count and tally the paper ballots manually or with the use of tabulating equipment which does not involve an additional voting system. The results of the vote tally shall be certified by the county board of elections to the county clerk and to the Secretary of State. The county board of elections shall authorize the candidates***, slates of candidates,*** or their representatives, and representatives of the news media to be present during the counting of the paper ballots. Except as otherwise required in this chapter that certain records and papers relating to specified elections be retained for twenty-two (22) months, the county clerk shall retain the paper ballots for sixty (60) days, after which time they shall be destroyed in a manner to render them unreadable by the county board of elections if no contest or recount action has been filed.

Section 37. KRS 117.295 is amended to read as follows:

(1) For a period of ***ten (10)*** [~~fifteen (15)~~] days following any primary election, and for a period of thirty (30) days following any general or special election, the voting machine shall remain locked against voting, except that it may be opened and all the data and figures therein examined, upon the order of any court of competent jurisdiction, or judge thereof, or by direction of any legislative committee authorized and empowered to investigate and report upon contested elections affected by the use of ***a voting*** [~~such~~] machine, and ***all the*** [~~such~~] data and [~~such~~] figures shall be examined by ***the*** [~~such~~] court, judge or committee in the presence of the officer having the custody of ***the*** [~~such~~] machine. In the event of a contest of election the court in which ***the*** [~~such~~] contest is pending or the committee before which ***the*** [~~said~~] contest is being heard may upon motion of any party to ***the*** [~~said~~] contest issue an order requiring that ***the*** [~~said~~] voting machines shall remain continuously locked for [~~such~~] further time as may be reasonable or necessary, with due regard for the preparation of ***the*** [~~said~~] machines for a succeeding primary, ***runoff primary, regular,*** [~~general~~] or special election, but in no event shall ***the*** [~~such~~] order compel that ***the*** [~~said~~] machines remain locked to a time within thirty (30) days next preceding any [~~such~~] approaching primary, ***runoff primary, regular,*** [~~general~~] or special election.

(2) During the period when ***the*** [~~such~~] machine is required to be kept locked the keys thereto shall remain in the possession of the county board of ***elections*** [~~election commissioners~~]. After ***that*** [~~such~~] period it shall be the duty of the county board of ***elections*** [~~election commissioners~~] to return ***the*** [~~such~~] keys to the custody of the county clerk.

Section 38. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, [~~and~~] primary***, and runoff primary*** elections shall apply to elections conducted with the use of voting machines, and all provisions of ***the general*** [~~such~~] laws ***applying*** [~~with respect~~] to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates ***or slates of candidates*** to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) ***A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty-fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday.*** The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

Section 39. KRS 118.215 is amended to read as follows:

(1) After the order of the names has been determined as provided in KRS 118.225, the Secretary of State shall certify, to the county clerks of the respective counties entitled to participate in the nomination or election of the respective candidates, the name, place of residence, and party of each candidate ***or slate of candidates*** for each office, as specified in the nomination papers or certificates and petitions of nomination filed with him, and shall designate the device with which the candidate groups, ***slates of candidates,*** or lists of candidates of each party shall be printed, in the order in which they are to appear on the ballot, with precedence to be given to the party that polled the highest number of votes at the preceding election for presidential electors, followed by the political party which received the second highest number of votes with the order of any other political parties and independents to be determined by lot. Candidates for county

offices and local state offices shall be listed in the following order: Commonwealth's attorney, circuit clerk, property valuation administrator, county judge/executive, county attorney, county clerk, sheriff, jailer, county commissioner, coroner, justice of the peace, and constable. The names of candidates for President and Vice President shall be certified in lieu of certifying the names of the candidates for presidential electors. The names shall be certified as follows:

(a) Not less than ninety-eight (98) days before a primary;

(b) ***Not less than twenty-five (25) days before a runoff primary;***

(c) Not less than seventy-seven (77) days before a general election, the certification to include only candidates to federal office; and

(d)[~~(c)~~] Not less than seventy-seven (77) days before a general election, the certification to include all candidates ***and slates of candidates*** except those to federal office.

(2) Except as otherwise provided in subsection (3) of this section, all independent candidates ***or slates of candidates*** whose nominating petitions are filed with the county clerk or the Secretary of State shall be listed under the title and device designated by them as provided in KRS 118.315, or if none is designated, under the word "independent," and shall be placed on the ballot in a separate column or columns or in a separate line or lines according to the office which they seek. The order in which independent candidates ***or slates of candidates*** shall appear on the ballot shall be determined by lot by the county clerk. If the same device is selected by two (2) groups of petitioners, it shall be given to the first selecting it and the county clerk shall permit the other group to select a suitable device. This section shall not apply to candidates for municipal offices which come under subsection (3) of this section.

(3) The ballots used at any election in which city officers are to be elected as provided in subsection (2) of this section shall contain the names of candidates for the city offices grouped according to the offices they seek, and the candidates shall be immediately arranged with and designated by the title of office they seek. The order in which the names of the candidates for each office are to be printed on the ballot shall be determined by lot. Each group of candidates for each separate office for which the candidates are to be elected shall be clearly separated from other groups on the ballot and spaced to avoid confusion on the part of the voter.

(4) The Secretary of State shall not knowingly certify to the county clerk of any county the name of any candidate ***or slate of candidates*** who has not filed the required nomination papers, nor knowingly fail to certify the name of any candidate ***or slate of candidates*** who has filed the required nomination papers.

(5) If the county clerk determines that the number of certified candidates ***or slates of candidates*** cannot be placed on a ballot which can be accommodated by the voting machines currently in use by the county, he shall so notify the State Board of Elections not less than eighty-eight (88) days before the primary or sixty-five (65) days before the general election. The State Board of Elections shall meet within five (5) days of the notice, review the ballot conditions, and determine whether supplemental paper ballots are necessary for the election. Upon approval of the State Board of Elections, supplemental paper ballots may be used for nonpartisan candidates ***or slates of candidates*** for an office or offices and public questions submitted for a yes or no vote. All candidates ***or slates of candidates*** for any particular office shall be placed either on the machine ballot or on the paper ballot.

(6) The ballot position of a candidate ***or slate of candidates*** shall not be changed after the ballot position has been designated by the county clerk.

Section 40. KRS 118.225 is amended to read as follows:

(1) For the purpose of determining the order in which the names of candidates ***or slates of candidates*** to be voted for by the electors of the entire state shall be certified and printed on the ballots with the designation of the respective offices, the Secretary of State shall prepare lists of the counties of each congressional district of the state. He shall arrange the surnames of all candidates ***or slates of candidates*** for each office in alphabetical order for the First Congressional District, and the names shall be certified in this order to the county clerks of all the counties comprising that district. For each succeeding congressional district, taken in numerical order, the name appearing first for each office in the last preceding district shall be placed last, and the name appearing second in the last preceding district shall be placed first, and each other name shall be moved up one (1) place. The lists shall be certified accordingly.

(2) For all other offices for which nomination papers and petitions are filed with the Secretary of State, the order of names of candidates for each office shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2:00 p.m., standard time, one hundred sixteen (116) days before the primary***, twenty-six (26) days before a runoff primary,*** or eighty-eight (88) days before the general election.

(3) For all offices for which nomination papers and petitions are filed in the office of the county clerk, the order in which the names of candidates for each office are to be printed on the ballot shall be determined by lot at a public drawing in the office of the county clerk at 2:00 p.m., standard time, one hundred sixteen (116) days before the primary or eighty-eight (88) days before the general election.

(4) If the number of certified candidates ***or slates of candidates*** cannot be placed on a ballot which can be accommodated on voting machines currently in use in the county, the county clerk shall notify the State Board of Elections, as provided in KRS 118.215.

Section 41. KRS 118.245 is amended to read as follows:

(1) The candidate ***for office, other than the offices of Governor and Lieutenant Governor,*** receiving the highest number of votes in a primary election for the office for which he is a candidate shall be the nominee of his party for that office and shall receive the certificate of nomination.

(2) A slate of candidates for Governor and Lieutenant Governor that receives not less than forty percent (40%) of its party's votes cast shall be the nominee of its party for those offices and that slate of candidates shall receive the certificate of nomination; except that if two (2) slates of candidates receive forty percent (40%) or more of their party's votes, the slate receiving the higher number of votes shall be its party's nominee, and no runoff primary shall be conducted.

(3) A slate of candidates for Governor and Lieutenant Governor that receives the highest number of its party's votes but which number is less than forty percent (40%) of the votes cast for all slates of candidates of that party, shall be required to participate in a runoff primary with the slate of candidates of the same party receiving the second highest number of votes.

(4) The slate of candidates receiving the highest number of votes in a runoff primary shall be the nominees of that party for Governor and Lieutenant Governor, and that slate of candidates shall receive the certificate of nomination.

(5) Subject to the foregoing provisions relating to a runoff primary, if two (2) or more slates of candidates in a primary election are found to have received the next highest and equal number of votes for the nomination for election to the offices of Governor and Lieutenant Governor, the slate which will appear on the ballot in a runoff primary shall be determined by lot in the manner the state board directs, in the presence of not less than three (3) other persons.

(6) Subject to the foregoing provisions relating to a runoff primary, if two (2) or more ***candidates or slates of candidates in a runoff primary or primary election*** [~~persons~~] are found to have received the highest and an equal number of votes for nomination to the same office, the election shall be determined by lot in

the [~~such~~] manner [~~as~~] the board directs, in the presence of not less than three (3) other persons. This section does not apply to presidential primaries.

Section 42. KRS 120.055 is amended to read as follows:

Any candidate ***or slate of candidates*** for nomination to office at a primary election held under the provisions of KRS 118.015 to 118.035 and 118.105 to 118.255, or any candidate for nomination to a city office at a primary election for which the statutes do not otherwise provide for determining contest elections, for whom a number of votes was cast equal to not less than fifty percent (50%) of the votes cast for the successful candidate ***or slate of candidates*** for nomination to ***the*** [~~such~~] office, may contest the right of the successful candidate ***or slate of candidates***, and of any other candidate ***or slate of candidates*** for nomination to ***the*** [~~such~~] office, to ***the*** [~~such~~] nomination, by filing a petition in the Circuit Court within ***ten (10)*** [~~fifteen (15)~~] days from the day of the primary election, stating the specific grounds relied upon for the contest, and causing a summons to be issued, returnable in ***seven (7)*** [~~ten (10)~~] days. In the case of candidates ***or slates of candidates*** for offices for the state at large, the petition shall be filed in the Franklin Circuit Court; in the case of other candidates it shall be filed in the Circuit Court of the county in which the contestee resides. The summons may be personally served on the contestee in any county, or it may be served by leaving a copy at his home with a member of his family over sixteen (16) years of age, or by posting a copy on the door of his residence. The contestee shall file his answer within ***seven (7)*** [~~ten (10)~~] days after service of summons. The answer may contain grounds of contest in favor of the contestee and against the contestant, but the grounds ***shall*** [~~must~~] be specifically set out. Any candidate ***or slate of candidates*** who would have been qualified to bring a contest action under this section, who is a party to a recount proceeding brought under KRS 120.095, may, by filing an answer in the recount proceeding within the time allowed by this section for filing grounds of contest, set forth grounds of contest against the petitioner in the recount proceeding. No ground of contest by either party shall be filed or made more definite by amendment after the expiration of the time allowed by this section for filing the original pleading. The contestant may file a reply within five (5) days after answer is filed, which shall complete the pleading, and any affirmative matter in the reply shall be treated as controverted. Upon return of the summons, properly executed, to the office of the circuit clerk of the county in which the action is pending, the clerk shall immediately docket the cause and notify the presiding judge of the court that the contest has been instituted, and the judge shall proceed to a trial of the cause within five (5) days after the issue was joined. In judicial circuits having more than one (1) circuit judge the judge who shall hear the cause shall be determined by lot.

Section 43. KRS 120.095 is amended to read as follows:

(1) Any candidate ***or slate of candidates*** [~~who was~~] voted for at a primary election held under KRS 118.015 to 118.035 and 118.105 to 118.255 may request a recount of the ballots by filing a petition [~~so requesting,~~] with the same court that contest petitions are required to be filed with, within ***ten (10)*** [~~fifteen (15)~~] days after the day of the primary election, or, if ***the*** [~~such~~] candidate ***or slate of candidates*** is qualified to bring a contest proceeding under KRS 120.055, by including a request for a recount in his petition instituting the contest proceedings.[~~, and~~] Any candidate ***or slate of candidates that*** [~~who~~] is a contestee in a contest proceeding under KRS 120.055 may request a recount in his answer filed in the contest proceeding, but in ***that*** [~~such~~] case the answer ***shall*** [~~must~~] be filed within five (5) days after the service of process on the petition. When a request for a recount is made, the ***State Board of Elections or the county board of elections, whichever would issue the certificate of nomination,*** [~~election commissioners whose duty it is to issue certificates~~] shall be made ***a party*** [~~parties~~] defendant. The party requesting the recount ***shall*** [~~must~~] execute ***a*** bond with approved surety for the costs of the recount, in an amount to be fixed by the circuit judge. Upon the bond being filed, the clerk shall immediately notify the circuit judge of the request and the filing of the bond, and the judge shall at once enter an order directing custody of the voting machines, the ballots, boxes and all papers pertaining to the election to be transferred to the Circuit Court, and fix a day for the recount proceedings to begin. A copy of the order shall be served upon the parties or their counsel in the same manner as notices are required to be served, which shall be deemed sufficient notice of the proceeding. On the day fixed, the court shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and file and enter of record the results thereof, and direct the ***state board or county***

board, whichever would issue the certificate of nomination, [~~election commissioners whose duty it is to issue the certificates~~] to issue ***a certificate*** [~~the same~~] to the party entitled thereto as shown by the recount.

(2) Any party may appeal from the judgment to the Court of Appeals, in the same manner as provided in KRS 120.075, all of the provisions of which statute shall be applicable.

(3) If a proceeding for recount is asked and prosecuted in a contest proceeding, it shall not await the preparation or trial of the contest in the Circuit Court or in the Court of Appeals. The action of the courts shall be final, concluding the parties as to the question of a recount of the ballots, and certificates shall then be issued to the parties entitled thereto.

Section 44. KRS 121.120 is amended to read as follows:

(1) The ***registry may:***

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under Section 45 of this Act;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent campaign finance law violations to the appropriate law enforcement authorities; and

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry shall appoint a full-time executive director, legal counsel and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry shall also appoint such other employees as are necessary to carry out the purposes of this chapter. ***All requests for personnel appointments shall be forwarded by the registry directly to the commissioner of the Department of Personnel and shall be subject to his review and certification only.***

[~~(2) The registry may conduct hearings with regard to possible violations and for the effective carrying out of its responsibilities the registry shall have the authority to initiate a civil action in any court of competent jurisdiction for the purpose of enforcing compliance with the provisions of this chapter or enjoining violations thereof or recovering any penalty prescribed by this chapter~~].

(4)[~~(3)~~] The registry shall adopt [~~such regulations,~~] official forms and perform ***other*** [~~such~~] duties [~~as are~~] necessary to implement the provisions of ***this chapter and KRS Chapter 121A*** [~~KRS 121.015 and 121.110 to 121.200~~]. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, ***slates of candidates,*** and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, [~~and~~] requirements as to reporting dates, and the length of time that candidates, ***slates of candidates,*** and committees are required to keep any records pursuant to the provisions of this chapter ***and KRS Chapter 121A***;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of ***them*** [~~the same~~];

(e) Preserve all reports for at least ***six (6)*** [~~four (4)~~] years from the date of receipt. ***Duly certified reports shall be admissible as evidence in any court in the Commonwealth***;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, ***slates of candidates, committees, contributing organizations,*** and parties, containing the total receipts and expenditures, and the date, name, address, [~~and~~] occupation ***and employer of each contributor and the spouse of the contributor or, if the contributor or the spouse of the contributor is self-employed, the name under which he is doing business***, and amount contributed by each contributor, listed alphabetically, shown to have contributed in excess of three hundred dollars ($300) ***to candidates and in excess of one hundred dollars ($100) to slates of candidates***;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter ***and KRS Chapter 121A***; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140[~~(2)~~]; ***and*** make public the fact that a violation has occurred and the nature thereof;

(j) [~~Hold public hearings, investigate any violations in reporting, and issue subpoenas for the production of any books, papers, correspondence, memorandums or other records and the attendance of witnesses which the registry deems relevant or material for the purpose of any investigation;~~

~~(k)~~] Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, ***charter county government,*** and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, ***charter county government,*** or district office;

(k)[~~(l)~~] Conduct audits of receipts and expenditures of all candidates ***or slates of candidates*** running for statewide office;

(l)[~~(m)~~] Require that candidates ***and slates of candidates*** shall maintain their records for a period of four (4) years from the date of the ***regular*** [~~general~~] election in their respective political races;

(m)[~~(n)~~] Initiate investigations and make investigations with respect to reports upon complaint by any ***person*** [~~registered voter~~] and [~~to~~] initiate proceedings on its own motion; [~~and~~]

(n)[~~(o)~~] Forward to the Attorney General any violations of this chapter ***and KRS Chapter 121A*** which may become the subject of civil ***or criminal*** prosecution***; and***

(o) Direct and administer the provisions of KRS Chapter 121A.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the office holder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

SECTION 45. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO READ AS FOLLOWS:

(1) Any person may file a written request with the registry for an advisory opinion concerning the application of the provisions of this chapter or any administrative regulation promulgated by the registry with respect to a specific transaction or activity by the person. The registry shall render a written advisory opinion relating to the specific transaction or activity to the person making the request not later than thirty (30) days after the registry receives the request.

(2) If a candidate, slate of candidates, or either of their campaign committees files a written request with the registry for an advisory opinion not more than thirty (30) days before the date of an election at which the candidate or slate of candidates shall appear on the ballot, the registry shall render a written advisory opinion relating to the request not later than twenty (20) days after the registry receives a complete request.

(3) No advisory opinion shall be issued by the registry or any of its employees except in accordance with the provisions of this section.

(4) (a) Any advisory opinion rendered by the registry under subsections (1) or (2) of this section may be relied upon only by the person or committee involved in the specific transaction or activity with respect to which the advisory opinion is rendered.

(b) Notwithstanding any other provision of law, any person or committee to whom a written advisory opinion has been rendered who relies upon any provision or finding of the advisory opinion and who acts in good faith in accordance with the provisions and findings of the advisory opinion shall not, as a result of any act with respect to a transaction or activity addressed by the advisory opinion, be subject to any sanction provided by this chapter or any administrative regulation promulgated by the registry.

(c) It shall be no defense in any civil or criminal proceeding regarding a violation of any provision of this chapter or any administrative regulation promulgated by the registry for a person or committee to claim that he relied upon and acted in good faith based upon any provision or finding of an advisory opinion if the person or committee was not the person or committee involved in the specific transaction or activity with respect to which the advisory opinion was rendered.

(5) (a) The registry shall make public all written requests for an advisory opinion made under subsection (1) or (2) of this section. Before rendering an advisory opinion, the registry shall accept written comments submitted by any interested party within the ten (10) day period following the date the request is made public.

(b) The registry shall make public all advisory opinions rendered under subsection (1) or (2) of this section.

Section 46. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of campaign finance law. ***In conducting any investigation, the registry shall have the power of subpoena and may compel production of evidence including the financial records of any person determined by the registry to be vital to the investigation. The records subject to subpoena include, but are not limited to, a person's bank records and other relevant documents, but excluding individual and business income tax records.***

(2) ***If*** [~~When~~] the registry concludes that there is probable cause to believe that the law has been violated, ***the registry shall notify the alleged violator of its conclusions and the evidence supporting them, and shall offer the alleged violator a conciliation agreement to resolve the issue. A conciliation agreement may require the alleged violator to comply with one (1) or more of the following:***

(a) To cease and desist violations of the law;

(b) To file required reports or other documents or information;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter.

(3) To accept a conciliation agreement, an alleged violator shall deliver the signed agreement to the registry either in person or by mail postmarked not later than ten (10) days after the day he received it. The registry may institute a civil action in Franklin Circuit Court or the Circuit Court for the county of the violator's residence to enforce the provisions of any conciliation agreement accepted by a violator who is not complying with its provisions.

(4) If the alleged violator declines to accept the conciliation agreement or fails to respond within the time allowed, [~~it may hold~~] a hearing ***before a panel of three (3) active or retired Justices or Judges of the Court of Justice appointed by the Chief Justice of the Supreme Court shall be held in accordance with the Kentucky Rules of Civil Procedure*** to determine if ***a*** [~~such~~] violation has occurred. [~~In such event,~~] The registry shall notify the complainant and the ***alleged violator*** [~~person complained against~~] that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. [~~If a hearing is held, the person complained against may choose whether the hearing shall be open or closed.~~] At the hearing, ***which shall be open to the public pursuant to KRS 61.810, the attorney for the registry shall present the evidence against the alleged violator and the alleged violator*** [~~the person complained against~~] shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross-examine opposing witnesses. ***The panel shall conclude its proceedings and render a decision not more than sixty (60) days after the date on which the panel was appointed to conduct a hearing. If*** [~~When~~] the ***panel*** [~~registry~~] determines that the preponderance of the evidence shows a violation has occurred, it shall issue an order***, which shall be appealable to the Court of Appeals within thirty (30) days after the date of the order,*** to the violator to comply with any one (1) or more of the following requirements:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this law;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of ***five*** [~~one~~] thousand dollars ***($5,000)*** [~~($1,000)~~], for failure to file any report***, payment of an administrative fee,*** or other document or information required by law until ***the*** [~~such~~] report, ***fee payment,*** document, or information is filed***; except that*** [~~, provided~~] there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed ***five thousand dollars ($5,000)*** [~~one hundred dollars ($100)~~] per violation for acts of noncompliance with provisions contained within this chapter[~~, except violations of KRS 121.150(2) and reporting requirements contained within this chapter~~]. ***An appeal of an order of the panel shall be advanced on the docket to permit a timely decision.***

(5)[~~(3)~~] If the registry concludes that there is probable cause to believe that the campaign finance law has been violated ***knowingly*** [~~wilfully~~], it shall refer ***the*** [~~such~~] violation to the Attorney General for prosecution. The Attorney General may request the registry's attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the registry all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the registry may petition the Circuit Court to appoint the registry's attorney to prosecute, and upon ***a*** [~~such~~] motion ***timely filed,*** for good cause shown, the court shall enter an order to that effect. Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court ***or in the Circuit Court for the county in which the contribution or expenditure constituting a campaign finance violation was solicited, made, or accepted. The prosecution of a person who unlawfully solicits, makes, or accepts a contribution or expenditure through the use of the mail may be conducted in the Circuit Court for the county in which the solicitation is mailed, the county in which the contribution is mailed or received, or the county in which the expenditure is mailed.***

(6)[~~(4)~~] Any person directly involved or affected by an action of the registry ***or the panel*** which is final, other than of a determination to refer a violation to the Attorney General for prosecution, may seek judicial review of ***the*** [~~such~~] action ***within thirty (30) days after the date of the action.***

(7)[~~(5)~~] If judicial review is sought of any action of the registry ***or the panel*** relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

Section 47. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order***; except***[~~, provided, however,~~] in the case of the Personnel Board[~~,~~] and where the attached department or administrative body is headed by a constitutionally elected officer, ***the*** [~~such~~] attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

    (a) Secretary of State.

    (b) Board of Elections.

    (c) Registry of Election Finance.

4. Department of Law.

    (a) Attorney General.

5. Department of the Treasury.

    (a) Treasurer.

6. Department of Agriculture.

    (a) Commissioner of Agriculture.

    (b) Kentucky Council on Agriculture.

7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

    (a) Department of State Police.

    (b) Department of Criminal Justice Training.

    (c) Office of Administration.

2. Education and Humanities Cabinet:

    (a) Department of Education.

        (1) State Board for Elementary and Secondary Education.

(2) Education Professional Standards Board.

(b) Department for Libraries and Archives.

(c) Kentucky Educational Television.

(d) Kentucky Historical Society.

(e) Kentucky Teachers' Retirement System Board of Trustees.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Department of Law.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department for Existing Business and Industry.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

(f) Office of Industrial Development.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky Harness Racing Commission.

(i) Kentucky State Racing Commission.

(j) [~~Registry of Election Finance.~~

~~(k)~~] Board of Claims.

(k)[~~(l)~~] Crime Victims Compensation Board.

(l)[~~(m)~~] Kentucky Board of Tax Appeals.

(m)[~~(n)~~] Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management and Fiscal Affairs.

(c) Office of Historic Properties.

(d) Office of Financial Management and Economic Analysis.

(e) Office of Risk Management.

(f) Department for Administration.

(g) Department of Facilities Management.

(h) Department of Information Systems.

(i) State Property and Buildings Commission.

(j) Kentucky Pollution Abatement Authority.

(k) Kentucky Savings Bond Authority.

(l) Deferred Compensation Systems.

(m) Office of Equal Employment Opportunity Contract Compliance.

(n) Capital Plaza Authority.

(o) County Officials Compensation Board.

(p) Financial Disclosure Review Commission.

(q) Kentucky Employees Retirement Systems.

(r) Commonwealth Credit Union.

(s) State Investment Commission.

(t) Kentucky Housing Corporation.

(u) Governmental Services Center.

(v) Kentucky Local Correctional Facilities Construction Authority.

(w) Kentucky Turnpike Authority.

(x) Historic Properties Advisory Commission.

9. Corrections Cabinet:

(a) Parole Board.

(b) Commission on Corrections and Community Services.

(c) Department of Adult Correctional Institutions.

(d) Department of Community Services and Facilities.

(e) Office of Administrative Services.

(f) Office of Corrections Training.

(g) Office of General Counsel.

10. Labor Cabinet:

(a) Department of Workplace Standards.

(b) Department of Workers' Claims.

(c) Kentucky Labor-Management Advisory Council.

(d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

11. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Tax Compliance.

(c) Department of Administrative Services.

12. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

13. Cabinet for Workforce Development:

(a) Department for Adult and Technical Education.

(b) Department of Vocational Rehabilitation.

(c) Department for the Blind.

(d) State Board for Adult and Technical Education.

(e) Governor's Council on Vocational Education

(f) Governor's Commission on Literacy.

(g) The State Board for Proprietary Education.

(h) The GED Foundation.

(i) The Kentucky Occupational Information Coordinating Committee.

(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 48. KRS 15.242 is amended to read as follows:

The Attorney General shall possess jurisdiction, concurrent with that of county and Commonwealth's attorneys, to investigate and prosecute violations of the election laws. The Attorney General, county ***attorneys,*** and Commonwealth's attorneys shall notify the Registry of Election Finance of any investigation or prosecution of alleged election law violations.

Section 49. KRS 117.315 is amended to read as follows:

(1) Each political party is entitled to have not exceeding two (2) challengers at each precinct during the holding of the primary election. Any group of bona fide candidates, as defined in KRS 118.176, of the same political party equal to twenty-five percent (25%) of all the candidates for that party to be voted for in a county in any primary, including state, district, and all other candidates, may recommend to the county committee or governing authority of the party for the county a list of persons whom they desire to have appointed as challengers in each precinct in the county. If more than two (2) such lists are furnished, the committee or governing authority, in making appointments of challengers, shall alternate between the several lists so furnished so as to give to each list an equal amount or proportion of the appointments, but in no event shall there be appointed more than one (1) challenger for any precinct from any one (1) list. The list of challengers shall be presented to the chairman or secretary of the party committee of the county not less than ***thirty (30)*** [~~seven (7)~~] days before the date on which the primary is to be held, and the committee or the chairman thereof shall make the appointments and certify to same at least ***twenty (20)*** [~~four (4)~~] days before the date on which the primary is held. The appointment of challengers shall be certified in all respects as challengers at regular elections, except as otherwise provided in this section, and the challengers shall be registered voters of the county in which the primary is held, and shall be subject to the same penalties

and possess the same rights and privileges as challengers at regular elections, except that the challengers of one (1) political party shall not be entitled to challenge persons who offer to vote for candidates of any other party in the primary. The provisions of this section shall be enforceable against the chairman of the political party committees by a mandatory summary proceeding instituted in the Circuit Court. The order of the court may be reviewed by the Court of Appeals as provided for the granting or dissolving of temporary injunctions.

(2) Any school board candidate, any independent ticket or candidate for city office, any nonpartisan city candidate, or candidate for an office of the Court of Justice at the primary or regular election may designate not more than one (1) challenger to be present at and witness the holding of primaries or elections in each precinct in the county. The challenger shall be entitled to stay in the room or at the door. The challenger shall be a registered voter of the county in which the primary or election is held, shall be appointed in writing by the chairman of the committee, independent candidate, or candidates representing a ticket, and shall produce written appointment on demand of any election officer.

(3) The county executive committee of any political party having a ticket to elect at any regular election, may designate not more than two (2) challengers to be present at and witness the holding of the election in each precinct in the county. The challengers shall be entitled to stay in the room or at the door. The challengers shall be registered voters of the county in which the election is held, shall be appointed in writing signed by the chairman of the committee and shall produce written appointments on demand of any election officer.

(4) Except as provided in KRS Chapter 242, not later than thirty (30) days prior to an election at which constitutional amendments or other public questions are to be submitted to the vote of the people, any committee that in good faith advocates or opposes an amendment or public question may file a petition with the clerk of the county asking that the petitioners be recognized as the committee entitled to nominate inspectors and challengers to serve at the election at which the constitutional amendment or public question is to be voted on. If more than one (1) committee alleging itself to advocate or oppose the same amendment file such a petition, the county board of elections shall decide, and announce by certiied mail, return receipt requested, to each committee not less than twenty (20) days immediately, preceding the election, which committee is entitled to nominate the challengers and inspectors. Such decision shall not be final, but any aggrieved party may institute proceedings with the county judge/executive and upon hearing the county judge/executive shall determine which of such committees shall be recognized as the one (1) to select inspectors and challengers at the election.

(5) The committee shall file the names of the persons nominated by it with the clerk of the county at least ***fifteen (15)*** [~~five (5)~~] days before the election. The county board of elections shall, within two (2) days thereafter, certify the nominees of the committee for the respective precincts to serve as challengers and inspectors at the election where any constitutional amendment or public question is to be voted upon. If more than one (1) amendment or question is to be voted upon, the county board of elections may designate, on the petition of the committee, one (1) person for each amendment and question to serve as inspector at the election and one (1) person for each amendment and question to serve as challenger at the election.

(6) The challengers and inspectors shall perform their duties in the same manner and be subject to the same privileges as other inspectors and challengers at an election.

Section 50. KRS 117.187 is amended to read as follows:

(1) The State Board of Elections shall regularly provide special training regarding the election laws and methods of enforcement to all county clerks, sheriffs, county attorneys, Commonwealth's attorneys and certain members of the Kentucky State Police.

(2) The county board of elections shall provide special training to all election officers, [~~and~~] alternates, ***and certified challengers*** regarding their duties and the penalties for failure to perform. Election officers,

including alternates, ***and certified challengers*** shall attend the training session, unless excused by the county board of elections for reason of illness or other emergency. Any person who fails to attend a training session without being excused shall be prohibited from serving as an election officer ***or challenger*** for a period of five (5) years.

(3) The county attorney shall attend the training session for election officers to assist in explaining the duties and penalties for failure to perform.

(4) Compensation in the minimum amount of five dollars ($5) for reimbursement of actual expenses shall be paid by the county to the election officers for attending the training session.

SECTION 51. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

The duties of a challenger appointed and certified as provided in KRS 117.315 shall include:

(1) The challenge of the eligibility of a voter who presents himself at the precinct to vote, but who the challenger has reason to believe:

(a) Is not a duly registered voter in the precinct;

(b) Is not a resident of the precinct;

(c) Is a convicted felon who has not had his civil rights restored; or

(d) Is not the person he claims to be.

(2) If the challenger attempts to challenge a person's right to vote, he shall express his challenge to the precinct election officer, he shall sign the oath of voter executed by the voter if the voter's name appears on the precinct roster and state the reason for his challenge as required by KRS 117.245(2).

SECTION 52. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

A challenger appointed and certified as provided in KRS 117.315 shall not:

(1) Electioneer or campaign on behalf of any candidate, issue, or political party;

(2) Handle official election materials except as provided in Section 50 of this Act;

(3) Attempt to intimidate or harrass, verbally or otherwise, any voter who is being challenged or any precinct election officer;

(4) Behave in any manner to disrupt activities at the polling place; or

(5) Attempt to interfere with the proper conduct of the election.

SECTION 53. A NEW SECTION OF KRS CHAPTER 117 IS CREATED TO READ AS FOLLOWS:

(1) It shall be the duty of a precinct election officer to warn a challenger who violates any provision of Sections 50 to 53 of this Act. If the challenger continues to violate these provisions, the precinct election officer shall order the challenger out of the polling place. Any challenger ordered from the polling place shall be prohibited from acting as a challenger in any precinct in any election for a period of five (5) years.

(2) The provisions of Sections 50 to 53 of this Act shall apply to all challengers in all elections conducted in the Commonwealth.

Section 54. KRS 120.185 is amended to read as follows:

(1) Any candidate who was voted for at a regular election for any of the offices to which KRS 120.155 applies may request a recount of the ballots by filing a petition so requesting, with the same court that petitions of contest are required to be filed with, within ten (10) days after the day of the election, or, if ***the*** [~~such~~] candidate is qualified to institute a contest proceeding under KRS 120.155, by including a request for a recount in his petition instituting the contest proceedings, but in the latter case the petition ***shall*** [~~must~~] be filed within ten (10) days after the day of the election. Any [~~such~~] candidate who is a contestee in a contest proceeding under KRS 120.155 may request a recount in his answer filed in the contest proceeding, but only if the answer is filed within ten (10) days after the day of election. If a request for a recount is made, the ***State Board of Elections or the county board of elections, whichever would issue the certificate*** [~~election commissioners whose duty it is to issue certificates~~] of election shall be made ***a party*** [~~parties~~] defendant. The party requesting the recount ***shall*** [~~must~~] execute bond with approved surety for the costs of the recount, in an amount to be fixed by the Circuit Judge. Upon the bond being filed, the clerk shall immediately notify the Circuit Judge of the request and the filing of the bond, and the judge shall at once enter an order directing the voting machines, ballots, boxes, and all papers pertaining to the election to be transferred to the Circuit Court, and fix a day for the recount proceedings to begin. A copy of the order shall be served upon the parties or their counsel in the same manner as notices are required to be served, which shall be deemed sufficient notice of the proceeding. On the day fixed, the court shall proceed to recount the ballots if their integrity is satisfactorily shown and shall complete the recount as soon as practicable, and file and enter of record the results thereof, and direct the ***state board or county board, whichever would issue the certificate of*** election [~~commissioners whose duty it is to issue the certificates~~] to issue the same to the party entitled thereto as shown by the recount.

(2) Any party may appeal from the judgment to the Court of Appeals, in the same manner as provided in KRS 120.075, all of the provisions of which statute shall be applicable.

(3) If a proceeding for recount is asked and prosecuted in a contest proceeding, it shall not await the preparation or trial of the contest in the Circuit Court or in the Court of Appeals. The action of the courts shall be final, concluding the parties as to the question of a recount of the ballots, and certificates shall then be issued to the parties entitled thereto.

Section 55. KRS 120.195 is amended to read as follows:

(1) No application to contest the election of a Governor, Lieutenant Governor, or member of the General Assembly shall be heard unless written notice, signed by the party contesting, is given. The notice shall state the grounds of the contest, and none other shall afterwards be heard as coming from that party, but the contestee may make defense without giving counternotice.

(2) In the case of the Governor or Lieutenant Governor, the notice ***shall*** [~~must~~] be given within thirty (30) days after the final action of the State Board of Elections. In the case of a member of the General Assembly, the notice ***shall*** [~~must~~] be given within fifteen (15) days after the final action of the county board of ***elections*** [~~election commissioners~~] or the State Board of Elections, whichever canvasses the returns.

(3) Immediately after the notice, either party may proceed to take proof by depositions, under the same rules and regulations that govern the taking of depositions in actions in equity, except that no commission shall be required for taking a deposition out of the state. The depositions shall be sealed up by the officer taking them, and directed to the clerk of the Senate or clerk of the House, as the case may require. The depositions properly taken shall be read as evidence before the board or branch of the General Assembly having jurisdiction of the case, and ***the*** [~~such~~] board or branch may call for and hear other proof. The taking of depositions to be used before a board or branch of the General Assembly shall close ten (10) days before

the next meeting of the General Assembly, or, if in session when the notice is given, when the taking is ordered to close.

(4) The costs of the proceeding shall be adjudged against the unsuccessful party, and a certificate thereof shall be given by the clerk of the Senate or the clerk of the House, as the case requires. A judgment for the costs may be obtained after five (5) days' notice in a Circuit Court.

Section 56. KRS 120.280 is amended to read as follows:

(1) Any elector who was qualified to and did vote on any constitutional convention, constitutional amendment, or statewide public question submitted to the voters of the state for their ratification or rejection may contest the election or demand a recount of the ballots by filing a petition, not more than fifteen (15) days after the official canvass and the announcement of the vote for the state by the State Board of Elections, with the clerk of the Franklin Circuit Court, which court shall have exclusive jurisdiction to hear and determine all matters in such cases. The petition shall set forth the grounds of the contest. The contestant may file with the clerk of the Franklin Circuit Court and the Secretary of State a notice of his intention to contest the election before the announcement of the official count by the State Board of Elections and thereupon the Secretary of State shall forthwith notify all the county boards of ***elections*** [~~election commissioners~~] in the counties involved in the contest to hold the ballots cast at the election on the question subject to the order of the Franklin Circuit Court. The notice shall be served by the Secretary of State by mailing a true and certified copy of the notice of contest, and the order to hold the ballots subject to the order of the court, by certified mail, return receipt requested, to the sheriffs of the counties in question, and the sheriffs shall forthwith acknowledge receipt thereof.

(2) The court shall, within five (5) days after the filing of the petition of contest, determine whether there are sufficient grounds stated to justify the contest, and shall thereupon require the contestants to give bonds for costs. All of the hearings relating to the contest shall be held in the courthouse of Franklin County.

(3) The clerk of the Franklin Circuit Court shall cause a notice of the contest to be published pursuant to KRS Chapter 424, setting out the substance or the grounds of contest alleged by the contestants.

(4) Any elector who participated in the election on the convention, amendment, or statewide public question may make himself a party as contestee in the action by filing his petition to be made a party not later than five (5) days after the contest is instituted, and by giving bond of the costs as required of the contestant. If no elector makes himself a party to the contest, the Commonwealth's attorney for the Franklin Circuit Court shall attend the trial of the cause, and he may file [~~such~~] motions and pleadings in the cause on behalf of the Commonwealth ***to*** [~~as will~~] insure a fair and honest determination of the contest.

(5) All laws relating to contested elections for state offices shall apply with equal force to contests of the character contemplated by this section, except as otherwise provided in this section and in KRS 120.290.

Section 57. KRS 117.265 is amended to read as follows:

(1) A voter may, at any general or special election, cast a write-in vote for any [~~eligible~~] person ***qualified as provided in subsection (2) or (3) of this section,*** whose name does not appear upon the ballot label as a candidate, by writing the name of his choice upon the appropriate device for the office being voted on provided on the voting machine as required by KRS 117.125. Any candidate for city office who is defeated in a partisan or nonpartisan primary election shall be ineligible as a candidate for the same office in the regular election. Any voter utilizing an absentee ballot may write in a vote for any eligible person whose name does not appear upon the ballot, by writing the name of his choice under the office.

(2) ***Write-in votes shall be counted only for candidates for election to office who have filed a declaration of intent to be a write-in candidate with the Secretary of State or county clerk, depending on the office being sought, not less than ten (10) days preceding the date of the general or special election. The declaration of intent shall be on a form prescribed by the Secretary of State.***

(3) Persons who wish to run for President and Vice-President shall file a declaration of intent to be a write-in candidate, along with a list of presidential electors pledged to those candidates, with the Secretary of State not less than ten (10) days preceding the date of the general election for those offices. Write-in votes cast for the candidates whose names appear on the ballot shall apply to the slate of pledged presidential electors, whose names shall not appear on the ballot.

(4) The county clerk shall provide to the precinct election officers certified lists of those persons who have filed declarations of intent as provided in subsections (2) and (3) of this section. Only write-in votes cast for qualified candidates shall be counted.

(5) Two (2) election officers of opposing parties shall upon the request of any voter instruct the voter on how to cast a write-in vote.

(6) The provisions of this section requiring the filing of a declaration of intent shall not apply to elections for municipal office in cities of the fifth or sixth class, and all write-in votes shall be counted, regardless of whether a declaration was filed.

[~~(3) This provision shall not apply to elections for President and Vice President of the United States where the vote is cast for presidential electors rather than the candidate.~~]

Section 58. KRS 118.255 is amended to read as follows:

(1) The Secretary of State shall receive a fee of ***five hundred dollars ($500) for a candidate for statewide elected state office or the Congress, two hundred dollars ($200) for a candidate for Commonwealth's attorney, the General Assembly, or the District Court, Circuit Court, Court of Appeals, or Supreme Court, and fifty dollars ($50) for other candidates who file with the Secretary of State*** [~~twenty dollars ($20)~~] for each notification and declaration and petition filed with him, to be paid by the candidate, or the candidate's representative, when the notification and declaration and petition is filed.

(2) The county clerk shall receive a fee pursuant to KRS 64.012 for each notification and declaration and petition filed with him to be paid by the candidate at the time of the filing. The county clerk shall receive a fee pursuant to KRS 64.012 for each name published as provided in KRS 118.235, to be paid by the county.

(3) ***The amount of fees received by the Secretary of State and county clerk for notifications and declarations and petitions filed with them, minus twenty dollars ($20) for each notification and declaration or petition filed, shall be forwarded to the State Treasurer for deposit in the election campaign fund established by Section 2 of this Act.***

(4) The county clerk and/or Secretary of State shall pay the cost of mailing the certification of nomination and declaration petition from the fee collected from the candidate.

Section 59. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$ 5.00
Exceeding three pages, for each page	1.50
Copy and certification of same when ordered	3.50

Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of deed	3.50
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of real estate mortgage	3.50
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	2.50
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00
Each additional marginal notation relating to same instrument	2.50
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	10.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	14.00
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one motor vehicle	6.00

For filing and indexing an assignment of a financing statement	6.00
For filing and noting a statement of release of collateral under a financing statement	1.00
Issuance of a certification as provided in KRS 355.9-407	3.50
Certified copy of financing statement or statement of assignment as provided in KRS 355.9-407	3.50
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	2.50
Filing or recording of certification of intention to operate a business under an assumed name	5.00
Filing a lien on a delinquent motor vehicle or trailer bill	6.00
Releasing a lien on a delinquent motor vehicle or trailer bill	1.50
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00
Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00

Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for Commonwealth's attorney, District Court, and Circuit Court	***200.00***
Filing notification and declaration and petition of candidates for office in cities of the fifth or sixth class and candidates for county and independent boards of education	***20.00***
Filing notification and declaration and petition of candidates for ***other offices*** [~~office~~]	***50.00***[~~20.00~~]
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	.75
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges)	5.00
Exceeding three pages, each additional page	1.50
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, each additional page	1.50
Filing certification required by KRS 65.070(1)(a)	2.00
Certification of franchise tax assessment	2.50

Section 60. The following KRS section is repealed:

121.200 Reports to be kept four years — Admissibility as evidence.

Section 61. The provisions of Section 14 of this Act shall first apply to the filing of notifications and declarations for Governor and Lieutenant Governor for the statewide primary of 1995.

Section 62. The provisions of Section 25 and subsection (6)(b) of Section 28 of this Act relating to limitations on contributions and administrative fees on contributions to candidates by permanent committees, shall first apply to elections held and contributions made, respectively, after January 1, 1993. Subject to the limitations of subsection (6) of Section 8 of this Act, the balance a candidate has in his campaign account as of December 31, 1992 shall not be subject to the limitations of Section 25 of this Act and may be used for future campaign expenses.

Section 63. The provisions of Sections 16 and 24 of this Act shall first apply to any appointment to any state office or position made by gubernatorial appointment, lease or any contract with the Commonwealth awarded during the term of office of the Governor elected at the November 1995 election. Any restriction on the receipt of an appointment or contract by the provisions of KRS 121.056 as it existed prior to its amendment by Section 24 of this Act shall remain operative for the term of office of the Governor elected at the November 1991 election.

Section 64. If the provisions of subsection (2) of Section 5 of this Act are declared unconstitutional, the maximum contribution which may be made to or received by a slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide by the maximum expenditure limit or a slate that has recinded a statement of intent to accept transfers from the fund shall be five hundred dollars ($500) in any one (1) election.

The Committee Title Amendment No. to **SB 221** is as follows:

Amend printed copy of **SB 221/HCS** as follows:

By amending the title to read "AN ACT relating to the regulation of the conduct and financing of elections."

Motions, Petitions and Communications (Continued)

Representative Bowling moved the adoption of the following **HR 247**:

HR 247, A RESOLUTION adjourning in loving memory and honor of Carolyn Boatman Brooks.

With deepest respect, we pay homage and tribute to Carolyn Boatman Brooks.

WHEREAS, Carolyn Boatman Brooks was born on August 30, 1950, and departed this life on March 5, 1992; and

WHEREAS, Carolyn Boatman Brooks was the loving daughter of Bill Boatman and Joanna Larrick Boatman; and

WHEREAS, Carolyn Boatman Brooks is best remembered and admired for her leadership qualities in community services, for, among other things, she had served as chairman of the Mountain Laurel Festival; the head librarian at Clear Creek Baptist Bible College; and Pineville City schools librarian; and

WHEREAS, Carolyn Boatman Brooks was an active member of the Pineville First Baptist Church, serving as youth director, Sunday school teacher, and church girls' group leader; and

WHEREAS, Carolyn Boatman Brooks was the devoted wife of Milton Brooks III, and loving mother to Abby Brooks and Benjamin Brooks; and

WHEREAS, all who knew and admired Carolyn Boatman Brooks will grieve over their loss, and she is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body does hereby express its profound sense of sorrow upon the tragic passing of Carolyn Boatman Brooks, and extends to her family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, it does so in loving memory and honor of Carolyn Boatman Brooks.

Section 3. That the Clerk of the House of Representatives is directed to transmit eight copies of this Resolution to Mr. Milton Brooks III, 100 Larch Street, Pineville, Kentucky 40977.

HR 247 was adopted by voice vote.

Representative Yates moved the adoption of the following **HR 230**:

HR 230, A RESOLUTION recognizing the contributions of B.F. Goodrich Company.

WHEREAS, the members of the 1992 House of Representatives of the General Assembly of Kentucky are pleased to extend special recognition to the B.F. Goodrich Company in commemoration of its 50th Anniversary; and

WHEREAS, it is recognized that the B.F. Goodrich Company has played an integral role in polymer science which led to the development of synthetic rubber, a major aid to the allies in World War II; and

WHEREAS, the Louisville facility began in March 1942, on a small parcel of land only 23.6 acres in size and in the five decades that have passed, this facility has tripled its land capacity and expanded its production of vinyl resins and compounds; and

WHEREAS, applications of vinyl include piping, house siding, windows, appliance parts, wire and cable insulation and automotive interiors; and

WHEREAS, it was B.F. Goodrich scientists who discovered how to make a useful plastic material out of vinyl chloride and today polyvinyl chloride is the second most widely-used plastic in the world; and

WHEREAS, the Louisville Plant has directly contributed to the success of B.F. Goodrich as the leading domestic producer of vinyl materials in North America; and

WHEREAS, the B.F. Goodrich Louisville Plant has an active and ongoing plan to meet market demands and maintain its contribution to the economic health of the Louisville community; and

WHEREAS, the B.F. Goodrich Louisville Plant is a member of the Responsible Care program of the Chemical Manufacturers Association which includes a commitment to continuously improve its performance in health, safety and protecting the environment; and

WHEREAS, the 50th Anniversary of the B.F. Goodrich Louisville Plant will be held on April 7, 1992 at Bells Lane;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That we, the members of the 1992 House of Representatives of the General Assembly of Kentucky, in adopting this Resolution, recognize the importance of vinyl materials and the contribution B.F. Goodrich will provide to the economic health of Kentucky and the world industry.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Hans Kletke, Plant Manager, B.F. Goodrich Company, 4100 Bells Lane, Louisville, Kentucky 40211.

HR 230 was adopted by voice vote.

Representative Cyrus moved the adoption of the following **HR 246**:

HR 246, A RESOLUTION lauding the memory of Detective Howard L. Bellamy.

WHEREAS, the very praiseworthy Howard L. Bellamy provided outstanding service to the Kentucky State Police for twenty-one years; and

WHEREAS, fifty year old, Howard L. Bellamy's untimely death on March 16 is a great loss for the eastern region of our state; and

WHEREAS, Howard L. Bellamy's 1984 Coinex case did more to thwart the growth of organized crime in the Commonwealth's tri-state area than any other investigation; and

WHEREAS, Howard L. Bellamy's Coinex case began as an investigation of a murder and robbery and resulted in the indictment of twenty-one defendants; and

WHEREAS, three days before he died as a result of cancer, Howard L. Bellamy was honored with the Kentucky State Police Medal for Meritorious Service, the agency's second highest award; and

WHEREAS, in May 1979, Howard L. Bellamy earned the Kentucky State Police top award, the Bravery Award, for his efforts in a shootout with a murder suspect in rural Greenup County; and

WHEREAS, Howard L. Bellamy never sought glory for himself or the Kentucky State Police; his goal was to bring to justice those responsible for crimes;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body expresses its complete and utter sense of bereavement and loss upon the passing of Detective Howard L. Bellamy and commends his loving wife, Dorthy Bellamy, and his family to the solace of the Almighty.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to his devoted wife, Dorthy Bellamy, 1540 Elmhurst Drive, Worthington, Kentucky 41183.

HR 246 was adopted by voice vote.

Representative Callahan moved the adoption of the following **HR 219**:

HR 219, A RESOLUTION honoring Howard "Brownie" Braun.

WHEREAS, Brownie Braun was born December 11, 1916; and

WHEREAS, Brownie Braun knows the world belongs to the energetic; and

WHEREAS, since active natures are rarely melancholy, this Kentuckian has brought benevolence friendship and a sense of alliance to the City of Southgate; and

WHEREAS, Brownie Braun has been a member of the Southgate Fire Department, the Columbus Monsignor Lehr Council, the Holy Name Society, St. Therese Catholic Church, the Catholic War Veterans, and the Sixth Order of Catholic Foresters; and

WHEREAS, he has also served the City of Southgate as an officer in the Optimist Club working with youth of the community of Southgate; and

WHEREAS, this ambitious Kentuckian has held many offices both locally and district-wide in the John R. Little Post 3186, of the Veterans of Foreign Wars;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors Howard "Brownie" Braun for his contributions to Southgate.

Section 2. That the Clerk of the House of Representatives is directed to transmit a copy of this Resolution to Howard "Brownie" Braun, 5 Retreat, Southgate, Kentucky 41071.

HR 219 was adopted by voice vote.

Representative Callahan moved the adoption of the following **HR 220**:

HR 220, A RESOLUTION honoring Larry Herfurth of Southgate.

WHEREAS, Larry Herfurth gives the great gift of safety to the community of Southgate; and

WHEREAS, Larry Herfurth has been a member of the Southgate Fire Department for twenty-five years; and

WHEREAS, Larry Herfurth is an integral part of the Southgate Fire Department providing leadership by serving during his tenure in every position in the department; and

WHEREAS, Larry Herfurth has made the future safer through his capacity as a state fire instructor; and

WHEREAS, Larry Herfurth also follows his honorable pursuits as a member of the Northern Kentucky and Campbell County Firefighters Associations;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives praises Larry Herfurth for his protection of the great Commonwealth in his capacity as a member of the Southgate Fire Department.

Section 2. That the Clerk of the House is directed to transmit a copy of this Resolution to Larry Herfurth, 217 Electric Ave., Southgate, Kentucky 41071.

HR 220 was adopted by voice vote.

Representative Freibert moved the adoption of the following **HR 248**:

HR 248, A RESOLUTION urging local observance of National Youth Service Day.

WHEREAS, the Honorable Governor Brereton C. Jones has proclaimed Tuesday, April 28, 1992, as Youth Service Day; and

WHEREAS, on that day, communities throughout our Commonwealth are urged to recognize the many contributions that Kentucky's youth make to their communities; and

WHEREAS, communities are also urged to expand their commitment to helping young people become fully involved in their communities through participation in the 1990 National and Community Service Act; and

WHEREAS, it is a great misfortune to be of use to no one; and

WHEREAS, successfully connecting a youth to his community and its institutions raises that youth's self-esteem and self-worth; and

WHEREAS, such connections are of vital importance for they are a catalyst to developing a community's greatest fortune - its youth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House urges the Commonwealth's communities to observe National Youth Service, April 28, 1992.

Section 2. That the Clerk of the House is directed to transmit a copy of this Resolution to Ruby Layson, Consultant, Community Education/Family Support Branch, Kentucky Department of Education, Capital Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

HR 248 was adopted by voice vote.

The following member filed a request to have his name withdrawn as co-sponsor of a Bill: **HB 840**, by Representative Pritchett.

Floor Amendments (Continued)

Floor Title Amendment to **SB 3**, by Representative Lewis:

Amend printed copy of **SB 3** as follows:

On page 1, amend the title to read: "AN ACT relating to housing."

Floor Amendment No. 3 to **SB 3**, by Representative Lewis:

Amend printed copy of **SB 3** as follows:

On page 5, below line 26, to add the following:

"Section 2. A NEW SECTION OF KRS CHAPTER 383 IS CREATED TO READ AS FOLLOWS:

If a judgment has been entered for the plaintiff based on nonpayment of rent, but a writ of restitution is not entered within thirty (30) days after entry of the judgment, no writ shall issue pursuant to the judgment subject only to the following provisions of this section. If within the twelve (12) month period after entry of the judgment, the defendant fails to pay when due the rental amounts required by the rental agreement, the plaintiff may terminate the tenancy of defendant based on the subsequent rental default and obtain entry of a writ of restitution as follows:

(1) The plaintiff shall serve defendant with a notice of subsequent rental default, service deemed to be accomplished by the placing of the notice in the United States mail, postage prepaid, certified delivery, or by the hand-delivery of the notice to the defendant or to an adult member of his or her family who resides in the subject property.

(2) The notice shall advise defendant of the entry of the previous judgment and the subsequent rental default, and shall notify defendant that:

(a) He has five (5) days from the date the notice was mailed, or three (3) days from the date of hand-delivery of the notice, within which to remedy the default, by payment of rent, late charges, and other lawful charges, if the default is remediable; and

(b) If the default is not adequately and timely remedied in the manner set forth in the notice, the plaintiff may redocket the action according to the procedures set forth in subsection (3) of this section.

(3) The plaintiff may redocket the cause for hearing by the court, as follows:

(a) The plaintiff shall file in the court a motion for redocket and a copy of the notice of subsequent default. The clerk of the court shall forthwith cause to be issued a forcible detainer warrant, notifying the defendant of the time, date, and place of the hearing.

(b) Service of the forcible detainer warrant shall be made pursuant to KRS 454.030.

(c) If the plaintiff proves that the notice of subsequent default was properly served, that the defendant has defaulted as alleged in the notice, and that the defendant has failed to remedy the default, the court shall issue judgment for the plaintiff awarding it possession of the property."; and

on page 6, line 1, after "Section" by deleting "2" and inserting "3"

Floor Amendment No. 1 to **SB 260**, by Representative Blandford:

Amend printed copy of **SB 260/GA** as follows:

On page 16, between lines 6 and 7 insert the following language:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

No teacher, administrator, school council, or local school board in any public school district of the Commonwealth shall be prohibited from reading or posting in a public school building, classroom, or event: the national motto; the national anthem; the pledge of allegiance; the preamble to the Kentucky Constitution; the Declaration of Independence; the writings, speeches, documents, and proclamations of the founding fathers and presidents of the United States; U.S. Supreme Court decisions; and acts of the U.S. Congress and congressional testimony including any that contain references to God, Jesus Christ, the Bible, the Ten Commandments or other important aspects of our Christian heritage which has contributed to the founding and history of America and its culture and institutions.";

On page 16, line 7 bracket and strikethrough "4" and insert in lieu thereof "5".

Floor Amendment No. 1 to **SB 321**, by Representative Zimmerman:

Amend printed copy of **SB 321/GA** as follows:

On page 6, after line 26, by inserting the following:

"***(7) No charitable organization shall contract with, or otherwise utilize the services of, any management company or other organization in conducting charitable gaming activities.***"; and

On page 7, line 1, by deleting "***(7)***" and inserting in lieu thereof "***(8)***".

Floor Amendment No. 5 to **SB 269**, by Representative Arnold:

Amend printed copy of **SB 269/GA** as follows:

on page 4, line 17, by adding thereafter,

"SECTION 6. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The primary legislative body of each county may enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of Sections 6 to 10 of this Act, the primary legislative body of each county that does not have an urban-county or charter county government shall be the fiscal court.

(2) The reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters, shall be paid out of the fees and commissions collected by the sheriff. If the fees and commissions are not sufficient to pay the expenses of the board and the other expenses authorized by statute to be paid from these fees and commissions, the sheriff may negotiate with the primary legislative body to determine a method of paying all or part of the expenses of the board.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive with approval by the primary legislative body, two (2) members appointed by the county sheriff, and one (1) member elected by the deputy sheriffs of the county. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. No person shall be appointed to the board who is a member of the immediate family of the sheriff of the county served by the board. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive, or other executive officer of an urban-county government, responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

(8) For the purpose of this section, "member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

SECTION 7. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Each person serving as a deputy sheriff on the effective date of an ordinance that creates a deputy sheriff merit board for the county in which he serves shall, within one (1) year following the effective date of that ordinance, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(2) Each person appointed as a deputy sheriff in a county that has adopted a deputy sheriff merit board before the date of his appointment shall, within one (1) year following the appointment, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(3) A person failing to meet the requirements of this section shall forfeit his position as deputy sheriff immediately upon the expiration of the applicable one (1) year time limit.

SECTION 8. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall be suspended, laid off, demoted, promoted, disciplined, threatened or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose. Nothing in this subsection shall limit the power of a sheriff to revoke the appointment of a deputy during the probationary period described in subsection (5) of this section.

(3) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall be a candidate for any public office. Any person who violates this subsection shall forfeit his position as deputy sheriff.

(4) Nothing contained in this section shall be construed to abridge the rights of any deputy sheriff with respect to his personal opinions, beliefs, or right to vote.

(5) A deputy sheriff's employment shall be probationary during the first year of service. A sheriff may, at his pleasure, revoke the appointment of a deputy who works for him at any time within one (1) year following the appointment.

SECTION 9. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Any deputy sheriff may be removed, suspended, or laid off by the sheriff for any cause which will promote the efficiency of the department. Except when an appointment is revoked during the probationary period described in subsection (5) of Section 8 of this Act, the sheriff shall furnish the deputy with a written statement of the reason why the action was taken.

(2) Except for the revocation of an appointment pursuant to subsection (5) of Section 8 of this Act, every action in the nature of a dismissal, suspension, or reduction made by the sheriff shall be subject to review by the board at the request of any deputy sheriff affected by the provisions of Sections 6 to 10 of this Act.

(3) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall present the charges to the sheriff, who shall investigate the charges. The sheriff shall determine what action, if any, shall be taken against the deputy, subject to the limitations set out in Sections 6 to 10 of this Act. The citizen may appeal the determination of the sheriff to the board.

SECTION 10. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The board may remove, suspend, lay off or discipline any deputy sheriff covered by the provisions of Sections 6 to 10 of this Act on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the deputy accused shall have the right to be present, represented by counsel, and confronted by all of the witnesses preferring charges against him.

(2) Procedural due process shall be afforded to all deputy sheriffs by the board. The board shall notify the deputy promptly and in writing of any charges brought against him by the board or by a citizen. The board shall have the power to issue subpoenas and to compel the attendance of witnesses, and shall conduct the hearing, as far as possible, within the Kentucky Rules of Civil Procedure. Any deputy who is not given a hearing within sixty (60) days of any charge being preferred shall be reinstated in full.

(3) After a full public hearing by the board, the board shall retire into executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. The board in executive session shall not receive any further evidence or communication from any source, except for legal advice from the board's counsel, prior to reaching its determination and conclusion.

(4) When an appointment is revoked during the probationary period described in subsection (5) of Section 8 of this Act, the action of the sheriff shall be final. In all other disciplinary matters, the action of the sheriff or the board shall be final, except that any aggrieved person may, within thirty (30) days after the decision is rendered, appeal to the Circuit Court of the county in which the board meets. The board shall be named as respondent, and the county attorney shall represent the board before the court. The appeal taken to the Circuit Court shall be a review of record by the court.

(5) The provisions of Sections 6 to 10 of this Act shall not apply to any nonsworn employee appointed by the sheriff pursuant to KRS 70.030 or to any special deputy appointed by the sheriff pursuant to KRS 70.045.

Section 11. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his own deputies, and may revoke the appointment at his pleasure ***except where that revocation is prohibited by the provisions of Sections 6 to 10 of this Act***. Before any deputy executes the duties of his office, he shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him in the performance of the duties of his office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under Section 6 of this Act shall appoint a deputy who is a member of the immediate family of the sheriff. The term "member of the immediate family" has the meaning given in Section 6 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

Funds in the Kentucky Law Enforcement Foundation Program Fund may be utilized by the Department of Criminal Justice Training to reimburse counties, urban-counties, or charter counties with sheriffs' departments of five (5) or fewer officers for the cost of the base salary fro each regular, full-time officer while the officer is obtaining the training required in Section 7 of this Act. The county, urban-county, or charter county shall show to the satisfaction of the Department of Criminal Justice Training that it will be placed in a situation of undue hardship if the funding is not provided. The secretary of the Justice Cabinet shall promulgate administrative regulations upon the recommendation of the Kentucky Law Enforcement Council to define what constitutes "undue financial hardship" and to otherwise implement this section.".

Floor Amendment No. 2 **SB 130**, by Representative Ridley:

Amend printed copy of **SB 130** as follows:

On page 13, after line 6 by adding:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

When benefits under a policy described in KRS 18A.225 or the self-funded plan described in KRS 18A.2281 are paid directly to the insured state employee they shall be made payable to both the insured employee and provider of services. Payment so made shall discharge the obligation of the insurer or plan with respect to the amount paid.".

Representative Ridley moved that **HB 840** be withdrawn. Agreed.

Representative Ravenscraft moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ravenscraft moved that he be recorded as voting "yea" on **SJR 67**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that his vote be changed from "yea" to "nay" on concurrence of Senate Amendment on **HB 458**. Agreed.

Representative Strong moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that he be recorded as voting "yea" on **SJR 85**. Agreed.

Representative Arnold moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Arnold moved that he be recorded as voting "yea" on **SB 122**. Agreed.

Representative P. Clark moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative P. Clark moved that he be recorded as voting "yea" on **HB 443**. Agreed.

Representative B. Smith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that he be recorded as voting "yea" on **HB 443**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 50** and **SB 206**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "abstain" on **HB 44** and "nay" to "yea" on **HB 473**. Agreed.

Representative Ward moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Ward moved that he be recorded as voting "yea" on **SJR 85, SJR 67, SB 50, SB 74, SB 51, SB 351, SB 147, SB 148, SB 149, SB 150, HB 468, HB 473, HB 19, HB 88, HB 561, HB 330, HB 89, HB 866, HB 443** and **SJR 69**. Agreed.

Announcements

The following meetings were announced:

Natural Resources and Environmental Protection, to discuss **SB 56**, Room 129, March 23, 1992, upon adjournment.

Agriculture and Small Business, 8:30 a.m., March 24, 1992, Room 129.

Business Organizations and Professions, 12 Noon, March 24, 1992.

State Government, to discuss **SB 63** and **SB 60**, March 23, 1992, upon adjournment.

Banking and Insurance, 10:00 a.m., March 24, 1992.

Cities, 9:30 a.m., March 24, 1992, Room 131.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 24, 1992.

On the roll call the vote was yeas 84—Ackerson, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Bentley, Blandford, Brown, Bruce, Bryant, Burch, Butler, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gee, Gedling, Geveden, Gray, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Jensen, Johnson, Jones, Keith, Kerr, Lear, Long, Lyne, Mack, Maggard, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riner, Sanders, Scorsone, Sheehan, B. Smith, T. Smith, Stokes, Strong, Stumbo, Toby, Todd, Turner, Ward, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Heleringer, LeMaster, Lile, Riggs.

The motion to adjourn was adopted.

TUESDAY, MARCH 24, 1992

FIFTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. William R. Jennings, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Overstreet moved that the reading of the Journal of March 23, 1992 be dispensed with and the same approved. Agreed.

Senate Message

Announcing passage of **SB 235**, **SB 389**, **SB 414**, **SCR 137**, **SCR 166**, **HB 16**, with Senate Committee Substitute, **HB 56**, with Senate Committee Substitute and Title Amendment, **HB 106**, with Senate Committee Substitute and Senate Floor Amendment, **HB 123**, with Senate Amendment, **HB 320**, with Senate Committee Substitute, **HB 387**, with Senate Amendment, **HB 504**, with Senate Committee Substitute, **HB 616**, with Senate Committee Substitute, **HB 800**, with Senate Amendment, **HB 199**, **HB 212**, **HB 285**, **HB 349**, **HB 438**, **HB 450**, **HB 483**, **HB 502**, **HB 512**, **HB 534**, **HB 562**, **HB 601**, **HB 610**, **HB 761**, **HB 788**, **HB 830** and **HJR 121**.

Message received on **HB 468**: The Senate has refused to recede from its Committee Amendment No. 1 to **HB 468** and is respectfully asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee on **HB 468**: Senator Moloney, Chairman; Senators Wright, Berger, and Kelly. (Time - 2:02 p.m.)

Governor Brereton C. Jones has appointed the following individual to the Kentucky State Board for Elementary and Secondary Education:

BRERETON C. JONES
GOVERNOR
EXECUTIVE ORDER
92 - 290
March 20, 1992

Secretary of State
Frankfort, Kentucky

By virtue of the authority vested in me by Section 156.029 of the Kentucky Revised Statutes, I, Brereton C. Jones, Governor of the Commonwealth of Kentucky, hereby appoint Dr. Samuel Robinson, Executive Director, Lincoln Foundation, 223 West Broadway-#400, Louisville, Kentucky 40202, as a member of the State Board for Elementary and Secondary Education, representing the state at large, to replace K. L. Moore, Frankfort, who has resigned. Dr. Robinson shall serve the remainder of the unexpired term ending April 14, 1996.

Please issue a commission to him.

s/Brereton C. Jones
Governor
Commonwealth of Kentucky

s/Bob Babbage
Secretary of State

Representative Donald J. Blandford
Speaker of the House
Kentucky State Capitol
Frankfort, Kentucky 40601

Dear Representative Blandford:

Governor Brereton C. Jones has appointed Dr. Samuel Robinson to the Kentucky State Board for Elementary and Secondary Education to replace Reverend K.L. Moore, who has resigned. This appointment is subject to confirmation of the Senate and House of Representatives, KRS 156.029.

The Executive Order and a brief biography of Dr. Robinson are attached.

Sincerely

s/Mary Helen Miller
Legislative Liaison

Attachment
cc: Evelyn Marston
Bobby Sherman

DR. SAMUEL ROBINSON
233 West Broadway, Suite 400
Louisville, Kentucky 40202

Dr: Samuel Robinson is the son of Mrs. Sarah Robinson and the late R. Robinson, Senior of Memphis. Dr. Robinson holds the bachelor and Master's degrees from Tennessee State University and the doctorate in education from Indiana University.

He is a member of the Board of Directors of the Kentucky Center for the Arts, the Louisville Orchestra, Humana Hospital University, Synod of the Living Waters, Presbyterian Church U.S.A., Presbyterian Health Education and Welfare Association, and the Board of Visitors, School of Education, Indiana University. He also serves as National Director of the Phi Beta Sigma Educational Foundation and is one of the co-founders of Louisville's chapter of the One Hundred (100) Black Men.

Dr. Robinson has received over one hundred (100) awards, commendations, and certificates for his civil and community involvement. These awards have included the Louisville Black Achievers Association's "Adult Achiever of the Year," Louisville Archdiocese, Peace and Justice Award, Phi Beta Sigma's National "Leader in Education" award, Sigma Pi Phi "Man of the Year" Award, Metroversity's Educational Equity Award, and Berea College's Community Service Award.

For the past sixteen years, he has served as the Executive Director of the Lincoln Foundation; an operating philanthropy, which supports programs in human relations and education.

He is married to the former Hugh Ella Walker and they are the parents of two daughters, Debra Robinson-Meadows and Charlotte Robinson, both of Atlanta, Georgia.

Dr. Robinson was first appointed to the Kentucky State Board for Elementary and Secondary Education in January, 1991.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 19**, **HB 88**, **HB 330** and **HB 561** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:05 p.m.)

HB 19, **HB 88**, **HB 330** and **HB 561** were delivered to the Senate and signed by the President. Delivered to the Governor on March 24, 1992 at 2:26 p.m.

Introduction of Bills and Resolutions

HR 250, by Representatives Blandford, Richards, Stumbo, Worthington and Rapier: A RESOLUTION confirming the appointment of Dr. Samuel Robinson as a member of the State Board for Elementary and Secondary Education.

HR 251, by Representative Scorsone: A RESOLUTION adjourning in honor of Dan Mynear of Lexington, crusader against A. I. D. S.

Floor Amendments

Floor Title Amendment to **SB 287**, by Representative J. Harper:

Amend printed copy of **SB 287** by amending the TITLE to read as follows: "AN ACT relating to the Natural Resources and Environmental Protection Cabinet."

Floor Amendment No. 1 to **SB 287**, by Representative J. Harper:

Amend printed copy of **SB 287/GA** on page 4, line 10, after the period by inserting the following:

"Section 5. KRS 224.01-010 is amended to read as follows:

As used in this chapter unless the context clearly indicates otherwise:

(1) "Air contaminant" includes smoke, dust, soot, grime, carbon, or any other particulate matter, radioactive matter, noxious acids, fumes, gases, odor, vapor, or any combination thereof;

(2) "Air contaminant source" means any and all sources of emission of air contaminants, whether privately or publicly owned or operated. Without limiting the generality of the foregoing, this term includes all types of business, commercial and industrial plants, works, shops, and stores, and heating and power plants and stations, buildings and other structures of all types, including single and multiple family residences, apartments, houses, office buildings, public buildings, hotels, restaurants, schools, hospitals, churches, and other institutional buildings, automobiles, trucks, tractors, buses and other motor vehicles, garages and vending and service locations and stations, railroad locomotives, ships, boats and other waterborne craft, portable fuel-burning equipment, incinerators of all types (indoor and outdoor), refuse dumps and piles, and all stack and other chimney outlets from any of the foregoing;

(3) "Air pollution" means the presence in the outdoor atmosphere of one (1) or more air contaminants in sufficient quantities and of such characteristics and duration as is or threatens to be injurious to human, plant, or animal life, or to property, or which unreasonably interferes with the comfortable enjoyment of life or property;

(4) "Closure" means the time at which a waste treatment, storage or disposal facility permanently ceases to accept wastes, and includes those actions taken by the owner or operator of the facility to prepare the site for post-closure monitoring and maintenance or to make it suitable for other uses;

(5) "Commission" means the Environmental Quality Commission;

(6) "Compost" means solid waste which has undergone biological decomposition of organic matter, been disinfected using composting or similar technologies, been stabilized to a degree which is potentially beneficial to plant growth and which is approved for use or sale as a soil amendment, artificial topsoil, growing medium amendment, or other similar uses;

(7) "Composting" means the process by which biological decomposition of organic solid waste is carried out under controlled aerobic conditions, and which stabilizes the organic fraction into a material which can easily and safely be stored, handled, and used in an environmentally acceptable manner:

(a) "Composting" may include a process which creates an anaerobic zone within the composting material;

(b) "Composting" does not include simple exposure of solid waste under uncontrolled conditions resulting in natural decay;

(8) "Demonstration" means the initial exhibition of a new technology, process or practice or a significantly new combination or use of technologies, processes or practices, subsequent to the development stage, for the purpose of proving technological feasibility and cost effectiveness;

(9) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(10) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or placing of any waste into or on any land or water so that such waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground waters;

(11) "District" means an air pollution control district as provided for in KRS Chapter 77;

(12) "Effluent limitations" means any restrictions or prohibitions established under state law which include, but are not limited to, effluent limitations, standards of performance for new sources, and toxic effluent standards on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged into waters;

(13) "Generator" means any person, by site, whose act or process produces waste;

(14) "Materials recovery facility" means a solid waste management facility that provides for the extraction from solid waste of recyclable materials, materials suitable for use as a fuel or soil amendment, or any combination of those materials;

(15) "Municipal solid waste disposal facility" means any type of waste site or facility where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including other waste allowed under Subtitle D of the Federal Resource Conservation and Recovery Act of 1976, as amended, and includes, but is not limited to, incinerators and waste-to-energy facilities that burn municipal solid waste, and contained and residential landfills, but does not include a waste site or facility which is operated exclusively by a solid waste generator on property owned by the solid waste generator which accepts only industrial solid waste from the solid waste generator or industrial solid waste generated at another facility owned and operated by the generator or wholly-owned subsidiary, or a medical waste incinerator which is owned, operated, and located on the property of a hospital or university which is regulated by the cabinet and used for the purpose of treatment, prior to landfill, of medical waste received from the generator exclusively or in combination

with medical waste generated by professionals or facilities licensed or regulated or operated by the Commonwealth;

(16) "Municipal solid waste reduction" means source reduction, waste minimization, reuse, recycling, composting, and materials recovery;

(17) "Person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, federal agency, state agency, city, commission, political subdivision of the Commonwealth, or any interstate body;

(18) "Post-closure monitoring and maintenance" means the routine care, maintenance, and monitoring of a solid waste or hazardous waste treatment, storage, or disposal facility following closure of the facility;

(19) "Publicly owned treatment works" means any device or system used in the treatment (including recycling and recovery) of municipal sewage or industrial wastes of a liquid nature which is owned by the Commonwealth or a political subdivision of the Commonwealth;

(20) "Recovered material" means those materials, including but not limited to compost, which have known current use, reuse, or recycling potential, which can be feasibly used, reused, or recycled, and which have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing, but does not include materials diverted or removed for purposes of energy recovery or combustion except refuse-derived fuel (RDF), which shall be credited as a recovered material in an amount equal to that percentage of the municipal solid waste received on a daily basis at the processing facility and processed into RDF; but not to exceed fifteen percent (15%) of the total amount of the municipal solid waste received at the processing facility on a daily basis;

(21) "Recovered material processing facility" means a facility engaged solely in the storage, processing, and resale or reuse of recovered material, but does not mean a solid waste management facility if solid waste generated by a recovered material processing facility is managed pursuant to KRS Chapter 224 and administrative regulations adopted by the cabinet;

(22) "Recycling" means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products, including refuse-derived fuel when processed in accordance with administrative regulations established by the cabinet, but does not include the incineration or combustion of materials for the recovery of energy;

(23) "Refuse-derived fuel" means a sized, processed fuel product derived from the extensive separation of municipal solid waste, which includes the extraction of recoverable materials for recycling and the removal of nonprocessables such as dirt and gravel prior to processing the balance of the municipal solid waste into the refuse-derived fuel product;

(24) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(25) "Sewage system" means individually or collectively those constructions or devices used for collecting, pumping, treating, and disposing of liquid or waterborne sewage, industrial wastes, or other wastes;

(26) "Termination" means the final actions taken by the cabinet as to a solid waste or hazardous waste treatment, storage or disposal facility when formal responsibilities for post-closure monitoring and maintenance cease;

(27) "Waste site or facility" means any place where waste is managed, processed, or disposed of by incineration, landfilling, or any other method, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that

solid waste prior to off-site disposal, or a recovered material processing facility, or the combustion of processed waste in a utility boiler;

(28) "Storage" means the containment of wastes, either on a temporary basis or for a period of years, in such a manner as not to constitute disposal of such wastes;

(29) "Transportation" means any off-site movement of waste by any mode, and any loading, unloading, or storage incidental thereto;

(30) "Treatment" means any method, technique, or process including neutralization, designed to change the physical, chemical, or biological character or composition of any waste so as to neutralize such waste or so as to render such waste nonhazardous, safer for transport, amenable for recovery, amenable for storage, or reduced in volume. Such term includes any activity or processing designed to change the physical form or chemical composition of hazardous waste so as to render it nonhazardous;

(31) "Waste" means:

(a) "Solid waste" means any garbage, refuse, sludge, and other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining (excluding coal mining wastes, coal mining by-products, refuse and overburden), agricultural operations, and from community activities, but does not include those materials including, but not limited to, sand, soil, rock, gravel, or bridge debris extracted as part of a public road construction project funded wholly or in part with state funds, recovered material, special wastes as designated by KRS 224.50-760, solid or dissolved material in domestic sewage, manure, crops, crop residue, or a combination thereof which are placed on the soil for return to the soil as fertilizers or soil conditioners, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923):

1. "Household solid waste" means solid waste, including garbage and trash generated by single and multiple family residences, hotels, motels, bunkhouses, ranger stations, crew quarters, and recreational areas such as picnic areas, parks, and campgrounds;

2. "Commercial solid waste" means all types of solid waste generated by stores, offices, restaurants, warehouses, and other service and nonmanufacturing activities, excluding household and industrial solid waste;

3. "Industrial solid waste" means solid waste generated by manufacturing or industrial processes that is not a hazardous waste or a special waste as designated by KRS 224.50-760, including, but not limited to, waste resulting from the following manufacturing processes: electric power generation; fertilizer or agricultural chemicals; food and related products or by-products; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay, and concrete products; textile manufacturing; transportation equipment; and water treatment; and

4. "Municipal solid waste" means household solid waste and commercial solid waste; and

(b) "Hazardous waste" means any discarded material or material intended to be discarded or substance or combination of such substances intended to be discarded, in any form which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness or pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed;

(32) "Waste management district" means any county or group of counties electing to form under the provisions of KRS Chapter 109 and operate in conformance with the provisions of KRS Chapter 109 and with Section 4006, Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580);

(33) "Water" or "waters of the Commonwealth" means and includes any and all rivers, streams, creeks, lakes, ponds, impounding reservoirs, springs, wells, marshes and all other bodies of surface or underground water, natural or artificial, situated wholly or partly within or bordering upon the Commonwealth or within its jurisdiction;

(34) "Water pollution" means the alteration of the physical, thermal, chemical, biological, or radioactive properties of the waters of the Commonwealth in such a manner, condition, or quantity that will be detrimental to the public health or welfare, to animal or aquatic life or marine life, to the use of such waters as present or future sources of public water supply or to the use of such waters for recreational, commercial, industrial, agricultural, or other legitimate purposes;

(35) "Pollutant" means and includes dredged spoil, solid waste, incinerator residue, sewage, sewage sludge, garbage, chemical, biological or radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, industrial, municipal or agricultural waste, and any substance resulting from the development, processing, or recovery of any natural resource which may be discharged into water;

(36) "NPDES" means National Pollutant Discharge Elimination System;

(37) "Manifest" means the form used for identifying the quantity, composition, and the origin, routing, and destination of waste during its transportation from the point of generation to the point of disposal, treatment, or storage;

(38) "Open dump" means any facility or site for the disposal of solid waste which does not have a valid permit issued by the cabinet or does not meet the environmental performance standards established under regulations promulgated by the cabinet;

(39) "Solid waste management" means the administration of solid waste activities: collection, storage, transportation, transfer, processing, treatment and disposal, which shall be in accordance with a cabinet approved county or multicounty solid waste management plan;

(40) "Solid waste management area" or "area" means any geographical area established or designated by the cabinet in accordance with the provisions of this chapter;

(41) "Solid waste management facility" means any facility for collection, storage, transportation, transfer, processing, treatment, or disposal of solid waste, whether such facility is associated with facilities generating such wastes or otherwise, but does not include a container located on property where solid waste is generated and which is used solely for the purpose of collection and temporary storage of that solid waste prior to off-site disposal, or a recovered material processing facility which is subject to regulation pursuant to the chapter for control of environmental impacts and to prevent any public nuisance;

(42) "Hazardous constituent" shall conform to the requirements of the Resource Conservation and Recovery Act (RCRA), as amended;

(43) "Land disposal" includes but is not limited to any placement of hazardous waste in a landfill, surface impoundment, waste pile, injection well, land treatment facility, salt dome formation, salt bed formation, or underground mine or cave;

(44) "Key personnel" means an officer, partner, director, manager, or shareholder of five percent (5%) or more of stock or financial interest in a corporation, partnership, or association or parent, subsidiary, or

affiliate corporation and its officers, directors, or shareholders of five percent (5%) or more of stock or financial interest;

(45) "Universal collection" means a municipal solid waste collection system which is established by ordinance and approved by the cabinet and requires access for each household or solid waste generator in a county. A commercial or industrial entity which transports or contracts for the transport of the municipal solid waste it generates or which operates a solid waste management facility for its exclusive use may be excluded from participation;

(46) "Governing body" means a county, a waste management district, an entity created pursuant to the Interlocal Cooperation Act, a taxing district created pursuant to the provisions of KRS 65.180 to 65.192, a special district created pursuant to the provisions of KRS 65.160 to 65.176, or counties acting under contract pursuant to KRS 109.082;

(47) "Convenience center" means a facility that is manned during operating hours for the collection and subsequent transportation of municipal solid wastes;

(48) "Transfer facility" means any transportation related facility including loading docks, parking areas, and other similar areas where shipments of solid waste are held or transferred during the normal course of transportation; [~~and~~]

(49) "Collection box" means an unmanned receptacle utilized to collect municipal solid waste*;*

(50) "Geographic Information System or GIS" means a computerized database management system for capture, storage, retrieval, analysis, and display of spatial (locational defined) data;

(51) "Geographic Information Systems Commission, GIS Commission, or Commission" means the Advisory Commission on Geographic Information Systems;

(52) "Office" means the Office of Geographic Information Systems; and

(53) "State GIS Coordinator" means the director of the Office of Geographic Information Systems.

SECTION 6. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The Office of Geographic Information Systems is hereby created in the office of the secretary of the Natural Resources and Environmental Protection Cabinet.

(2) The director of the office shall be known as the "State GIS Coordinator." The state GIS coordinator shall have certification or training in one or more of the fields of civil engineering, surveying, cartography, land records development, photogrammetry, geodesy, or urban or regional planning or automated land information systems, and experience in the design, implementation, and maintenance of geographic information systems, including expertise in mapping and spatial data standards, land records, and global positioning system technology. The salary of the director shall be determined by the commission. The director shall have authority, upon the advice and consent of the commission, to employ and fix compensation of such personnel as may be necessary to effectuate the provisions of Sections 2 through 4 of this Act.

(3) The office shall:

(a) Provide technical advice and assistance as to the implementation, management, and improvement of geographic and land records, with regard to their use within a geographic information system, upon request of a state or local governing body or planning commission. Any technical support or services provided

by the office to any executive branch agency in the application of geographic information systems technology shall be delivered in accordance with KRS 42.029(5);

(b) Provide information concerning the availability from federal, state, or other sources of map products, aerial photographs, digital databases, surveying and natural resource information, and other related resources;

(c) Promote access to federal and other digital data banks through standards which are compatible with federal standards;

(d) Develop and recommend model standards and requirements with regard to indexing; documentation; digital data development; mapping standards, other than those adopted by the United States Geological Survey for topographical maps; and other aspects of land records and geographic information systems, in consultation with the Advisory Commission on Geographic Information Systems and such other state agencies as may be appropriate; and

(e) Recommend ways of coordinating, consolidating, and improving GIS services and programs being carried out by state agencies.

(4) The office shall be established when funds are appropriated for the office. The secretary of the Natural Resources and Environmental Protection Cabinet, with the advice of the Advisory Commission on Geographic Information Systems, is authorized to establish the priority of responsibilities of the office in the event that funding is not adequate to address all of the office's responsibilities.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created an independent agency of state government to be known as the Advisory Commission on Geographic Information Systems, hereinafter in this section called the GIS commission, to promote the effective and efficient use of geographic information systems technologies and resources within the state and its local jurisdictions. It shall be the responsibility of the GIS commission to:

(a) Assist the state GIS coordinator in the development of model standards; and

(b) Advise and consult with the state GIS coordinator on the activities of the office.

(2) The commission shall have the primary responsibility to develop and implement statewide strategic plans for the coordination of geographic information systems and resources with the assistance of the Kentucky Information Systems Commission.

(3) The commission shall consist of thirteen (13) members appointed by the Governor, as follows:

(a) The secretary of the Finance and Administration Cabinet or his designee;

(b) The secretary of the Transportation Cabinet, or his designee;

(c) The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;

(d) The secretary of the Revenue Cabinet or his designee;

(e) The state geologist or his designee;

(f) The chairman of the Kentucky Information Systems Commission or his designee;

(g) The director of the Administrative Office of the Courts or his designee;

(h) One (1) member appointed by the Governor from a list of three (3) persons submitted by the Kentucky Section of the American Society of Photogrammetry and Remote Sensing;

(i) One (1) member appointed by the Governor from a list of three (3) persons submitted by the Kentucky Section of the American Society of Civil Engineers;

(j) One (1) member appointed by the Governor from a list of three (3) persons submitted by the Kentucky Association of Professional Surveyors;

(k) One (1) member appointed by the Governor from a list of three (3) persons submitted by the Kentucky Chapter of the American Planning Association;

(l) One (1) member appointed by the Governor from a list of three (3) persons submitted by the Kentucky Association of Counties; and

(m) One (1) member appointed by the Governor from a list of three (3) persons submitted by the Kentucky League of Cities.

(3) The term of office of the members specified in subsection (2)(a) to (g) of this section shall be the same as the term of office by virtue of which they serve upon the commission.

(4) Appointed members of the commission shall serve staggered terms as follows:

(a) The initial term of office of the members specified in subsection (2)(h) and (i) shall be for four (4) years;

(b) The initial term of office of the members specified in subsection (2)(j) and (k) shall be for three (3) years;

(c) The initial term of office of the members specified in subsection (2)(l) and (m) shall be for two (2) years;

(d) All subsequent appointments shall be for a term of four (4) years. Vacancies in the membership of the commission shall be filled in the same manner as the original appointments. Any vacancies shall be filled for the unexpired term. In the event a nominating organization changes its name, the subsequent organization having the same responsibilities and purposes shall be the nominating organization.

(5) All public members of the GIS commission shall be compensated at the rate of one hundred dollars ($100) per day for attendance at meetings. Each GIS commission member shall be reimbursed for travel and other actual expenses incurred in the performance of his duties.

(6) A majority of the members shall constitute a quorum for the transaction of business. Members' designees specified in paragraphs (a) through (c) of subsection (3) shall have voting privileges at GIS commission meetings.

(7) A member of the commission may not:

(a) Be an officer, employee, or paid consultant of a business entity, or of a trade association for business entities, that has substantial interest in the geographic information systems industry;

(b) Own, control, directly or indirectly, more than a ten percent (10%) interest in a business entity that has a substantial interest in the geographic information systems industry; or

(c) Be in any manner connected with any contract or bid for furnishing any state government body with geographic information systems or a service related to the geographic information systems or the computers on which they are automated, or a related service.

(8) Violation of a prohibition established by subsection (7) of this section shall be grounds for removal. The validity of an action of the commission shall not be affected by the fact that it was taken when a ground for removal of a member existed. If the chairman of the commission has knowledge that a potential ground for removal exists, the chairman shall notify the Attorney General of the potential ground for removal.

SECTION 8. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The GIS commission shall meet at least four (4) times each year. It shall select from its membership a chairman and any other officers it considers essential. In addition, the GIS commission shall meet, upon the call of its officers or the state GIS coordinator.

(2) The GIS commission's duties shall include the following:

(a) Formulating statewide strategic geographic information systems planning recommendations to be delivered to the Kentucky Information Systems Commission as a component of the statewide information resources plan. These recommendations shall take into consideration the information resources plans submitted by the three (3) branches and constitutional offices of state government, including the universities. These recommendations shall take into account projected GIS needs of the Commonwealth and all its departments, officers, agencies, and subdivisions;

(b) Recommending to the Kentucky Information Systems Commission action on geographic information systems aspects of agency information resources plans;

(c) Recommending model standards and policies with regard to indexing, documentation, digital data development, national mapping standards to supplement those adopted by the United States Geological Survey for topographical maps, GIS information retrieval and access, GIS data administration, and other aspects of geographic information systems to the Kentucky Information Systems Commission for inclusion in the statewide information resources architecture;

(d) Reviewing proposed policies of the office and advising the director on whether those proposed policies are in compliance with law and within the state's information resources architecture as defined by the Kentucky Information Systems Commission;

(e) Reviewing and approving any proposed schedule of fees for products and services recommended by the state GIS coordinator;

(f) Reviewing and approving GIS data, plans, and activities by state agencies to determine compliance with standards adopted by the commission;

(g) Reviewing and approving proposed memoranda of agreements, cooperative programs, and contracts, and whether they should be continued or renewed;

(h) Coordinating with the Department of Information Systems and the Department for Libraries and Archives, land records and geographic information system records training programs for local officials and other personnel; and

(i) Undertaking appropriate efforts with the Transportation Cabinet to promote the availability of geodetic services in the Commonwealth by:

1. Coordinating activities of federal, state and local agencies in densifying the state's survey monumentation network;

2. Assisting, upon request, in the implementation of the State Plane Coordinate Systems.

(3) The GIS commission shall have a permanent staff to provide necessary support for its activities. Permanent staff shall be knowledgeable in the management of spatial data or geographic information systems. To accomplish the GIS commission's work, all departments, divisions, agencies and officers of the Commonwealth shall furnish the GIS commission necessary assistance, resources, information, records or advice as it may require which is pertinent to the subject matter being studied."

Floor Amendment No. 1 to **SB 328**, by Representative Riggs:

Amend printed copy of **SB 328/GA** on page 44, line 6, by deleting the word "***fifteen***" and by inserting in lieu thereof "***ten***" and by deleting the number "***($15,000)***" and by inserting in lieu thereof "***($10,000)***"

Floor Amendment No. 2 to **SB 301**, by Representative Little:

Amend printed copy of **SB 301/GA** on page 5, line 26, after the period "." insert the following:

"***The provisions of this subsection shall not prevent the requirement of prequalification of suppliers when the circumstances warrant.***"; and

On page 6, line 20, after the period "." insert the following:

"***The provisions of this subsection shall not prevent the requirement of a bond on contracts for mowing services, sweeping services, or fertilizing services when the circumstances warrant.***"

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Transportation: **SB 57**

Report of Committees

The Committee on Agriculture and Small Business reported **SB 310**, **SB 370**, **SB 377** and **SCR 106** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 310, AN ACT relating to agricultural pesticides.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) The Commonwealth of Kentucky hereby determines that the citizens of the state benefit from a system of safe, effective, and scientifically sound pesticide regulation on agricultural and silvicultural land. The Commonwealth further finds that a system of pesticide regulation which is consistent, coordinated,

and comports with both federal and state technical expertise is essential to the public health, safety, and welfare, and that local regulation of pesticides does not materially assist in achieving these benefits.

(2) No city, town, county, or other political subdivision of the Commonwealth shall adopt or continue in effect any ordinance, resolution, rule, or regulation regarding agriculture and silviculture pesticide sale or use, including without limitation: registration, notification of use, advertising and marketing distribution, applicator training and certification, storage, transportation, disposal, disclosure of confidential information, or product composition.

(3) Nothing in this section shall be construed to abrogate any authority afforded by the state statutes to any program cabinet established under KRS Chapter 12 or any state or federal mandated hazardous materials regulations or fire safety codes and comprehensive hazardous materials management program.

SB 370, AN ACT relating to the proper disposal of agricultural chemicals and containers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 1 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The secretary of the cabinet shall organize an advisory committee to assist in the creation and implementation of a statewide agricultural chemical and chemical container collection and disposal program. The advisory committee shall be composed of representatives from the University of Kentucky College of Agriculture, the Kentucky Department of Agriculture, conservation districts, and any other agricultural organizations such as the Kentucky Farm Bureau, or state or federal agency which the secretary believes would be beneficial to the program.

(2) (a) The advisory committee shall assist the Division of Waste Management in the development of a comprehensive, cost-effective program for the statewide collection and disposal of agricultural chemicals and containers. This program shall include definitions for the types and quantities of chemicals that will be accepted and those persons or groups qualified to participate. The division is authorized to receive and expend funds for implementation of this program as funds become available.

(b) No person shall be cited for a pesticide release that occurs in the course of a chemical collection and disposal program operated under this subchapter, unless the release is the result of gross negligence or intentional misconduct.

SB 377, AN ACT relating to pesticides.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 217B.040 is amended to read as follows:

For the purposes of this chapter, unless the context requires otherwise:

(1) "Pest" means:

(a) Any insect, snail, slug, rodent, nematode, fungus, weed; and

(b) Any other form of plant or animal life, or virus, bacteria, or other micro-organism (except viruses, bacteria, or other micro-organisms on or in living man or other living animals) which is normally considered to be a pest, or which the department declares to be a pest.

(2) "Pesticide" means:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, attract or mitigate any pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant; and

(c) Any substance or mixture of substances intended to be used as a spray adjuvant.

(3) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(4) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(5) "Plant regulator" means any substance or mixture of substances intended through physiological action to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of plants but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments.

(6) "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising six-legged, usually winged forms, as for example beetles, bugs, bees, wasps, flies, and to other allied classes of arthropods whose members are wingless and usually have more than six (6) legs, as for example spiders, mites, ticks, centipedes, and wood lice, also nematodes and other worms, and any other invertebrates which are destructive, constitute a liability, and may be classed as pests.

(7) "Fungi" means all noncholorphyll-bearing thallophytes (that is, all noncholorphyll-bearing plants of a lower order than mosses and liverworts) as for example, rusts, smuts, mildews, molds, yeasts, bacteria and viruses, except those on or in living man or other living animals, and except those in or on processed food, beverages, or pharmaceuticals.

(8) "Weed" means any plant which grows where not wanted.

(9) "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or sac-like bodies covered with cuticle, and inhabiting soil, water, plants, or plant parts; may also be called nemas or eelworms.

(10) "Snails or slugs" include all harmful mollusks.

(11) "Person" means any individual, partnership, association, or any organized group of persons whether incorporated or not.

(12) "Equipment" means any type of ground, water or aerial equipment, device, or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household device used to apply any pesticide.

(13) "Restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA, or by regulation of the department.

(14) "Engage in business" means any application of pesticide by any person upon lands of another.

(15) "Land" means all land and water areas, including airspace, and all plants, animals, structures, building, devices and contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(16) "Pesticide applicator" means any person who owns or manages a pesticide application business which is engaged in the business of applying pesticides upon the lands of another.

(17) "Pesticide operator" means any person employed by a pesticide applicator who operates equipment for the application of pesticides or applies pesticides manually. This term does not include employees who work only under direct "on-the-job" supervision of a licensed pesticide applicator or licensed pesticide operator.

(18) "Pest control consultant" means any person who, for a fee, offers or supplies technical advice, supervision, aid, or recommends the use of specific pesticides for the purpose of controlling insect pests, plant diseases, weeds, and other pests.

(19) "Public operator" means any person in charge of any equipment used by municipal corporations, public utilities, or other governmental agencies applying pesticides.

(20) "Wildlife" means all living things that are neither human, domesticated, nor, as defined in this chapter, pests; including, but not limited to mammals, birds and aquatic life.

(21) "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment, or receive, and, having received, deliver or offer to deliver any pesticides in this state excepting internal distribution within a company or organization.

(22) "EPA" means the United States environmental protection agency.

(23) "Label" means the written, printed, or graphic matter on, or attached to, the pesticide or device or to any of its containers or wrappers.

(24) "Restricted use pesticide dealer" means any person who distributes restricted use pesticides except manufacturers of restricted use pesticides who distribute their products solely to "restricted use pesticide dealers."

(25) "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, defloculating agent, water modifier, or similar agent intended to be used with any other pesticide as an aid to the application or to the effect thereof, and which is in a package or container separate from that of the other pesticide with which it is to be used.

(26) "Commissioner" means the Commissioner of the Department of Agriculture.

SECTION 2. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) When any of the requirements of this chapter or administrative regulations promulgated pursuant thereto have not been complied with, the Commissioner shall cause a notice of violation to be issued upon the permit holder. The Commissioner shall set forth in his notice a reasonable time period, but not more than ninety (90) days, for the abatement of the violation. If any license holder has not abated the violation within the period of time prescribed in the notice of violation, the Commissioner shall issue an order for immediate compliance and assess the civil penalty provided for in this section and in Section 7 of this Act. The notice of noncompliance shall be mailed to the license holder by certified mail, return receipt requested, addressed to the license holder's permanent address as shown on department records. The notice of noncompliance shall specify in what respect the license holder has failed to comply with this chapter or administrative regulations promulgated pursuant thereto, and the period of time established for abatement.

If the license holder has not complied with the requirements set forth in the notice of noncompliance within the time limit allowed, the license may be revoked as provided in this chapter.

(2) The Commissioner shall develop a method for calculating the civil penalty for failure to abate a violation within the prescribed time period as authorized by this section, and he shall promulgate a schedule of the civil penalties in an administrative regulation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

(1) All hearings required by KRS 217B.010 to 217B.990, except as provided in KRS 217B.540, shall be held before the Attorney General, or his designee. At the conclusion of the hearing, the hearing officer shall within thirty (30) days make a report to the Commissioner and a recommended order which shall contain a finding of fact and conclusion of law. If the Commissioner finds upon written request by the hearing officer that additional time is needed, the Commissioner may grant an extension. The hearing officer shall serve a copy of his report and recommended order upon all parties of record to the proceeding, and they shall be granted the right to file exceptions within seven (7) days of receipt. The Commissioner shall consider the report and recommended order and pass upon the case. The decision shall be served by mail upon all parties and shall be the final order of the Commissioner. The Commissioner is authorized to promulgate administrative regulations to implement this section.

(2) Appeals may be taken from all final orders of the Commissioner. Within thirty (30) days from the rendition of the final order an appeal may be taken to the Franklin Circuit Court. Parties affected by the order shall file in the Circuit Court a petition which fully states the grounds upon which a review is sought and assign all errors relied upon. The Commissioner shall be named respondent, and service shall be had on the Commissioner. Summons shall be issued upon the filing of the petition directing the Commissioner to send the entire record to the clerk of the Circuit Court after certifying that the record is the entire original record. The record shall be filed by the clerk and considered by the Circuit Court on review. No new or additional evidence shall be introduced in the Circuit Court. The court shall hear the cause upon the record as certified by the Commissioner.

Section 4. KRS 217B.120 is amended to read as follows:

The department may suspend, [~~pending inquiry, for not longer than ten (10) days, and, after opportunity for a hearing, may deny, suspend,~~] revoke, or modify the provision of any applicator's, operator's or consultant's license issued under this chapter, if it finds that the applicant or licensee has committed any of the following acts, each of which is declared to be a violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Made a pesticide recommendation or application not in accordance with the label registered by the department under KRS 217.541 to 217.640;

(3) Applied known ineffective or improper materials;

(4) Operated faulty or unsafe equipment;

(5) Operated in a faulty, careless, or negligent manner;

(6) Refused or, after notice, neglected to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the department;

(7) Refused or neglected to keep and maintain the records required by this chapter, or to make reports when and as required;

(8) Made false or fraudulent records, invoices, or reports;

(9) Engaged in the business of the application of a pesticide without having a licensed applicator or operator in direct "on-the-job" supervision;

(10) Operated unlicensed equipment;

(11) Used fraud or misrepresentation in making an application for a license or renewal of a license;

(12) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license or permit;

(13) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(14) Made false or misleading statements during or after an inspection concerning any infestation or infection of pests found on land; or

(15) Impersonated any state, county, or city inspector or official.

Section 5. KRS 217B.510 is amended to read as follows:

The pest control advisory board shall have the following powers and duties:

(1) To ***review commercial structural pest control and commercial structural fumigation enforcement proceedings*** [~~hold hearings on the denial, suspension and revocation of license pursuant to KRS 217B.545; to hold hearings on the denial of an application for a license pursuant to KRS 217B.540;~~] and to make written recommendations for further action to the department.

(2) ***To hold hearings on the denial of an application for a license pursuant to KRS 217B.540.***

(3) To review commercial structural pest control and commercial structural fumigation applicator license applications to ensure that the applicants meet state pest control licensing requirements and to make recommendations to the department.

(4)[~~(3)~~] To review the state pest control licensing examinations.

(5)[~~(4)~~] To assist the department in administering the licensing examinations for commercial structural pest control applicators and commercial structural fumigation applicators and to make recommendations to the department.

(6)[~~(5)~~] To serve as a resource group to keep the department informed of current technical advancements in the pest control industry.

(7)[~~(6)~~] To recommend reasonable rules and regulations concerning the following matters:

(a) Standards of application and workmanship.

(b) Proper health and safety precautions.

(c) Requirements for standardized structural pest control contracts.

(d) Furnishing of reports and information necessary for the pest control advisory board to carry out the provisions of KRS 217B.515 to 217B.585.

(8) To assist the department in administering the licensing examinations for the commercial structural pest control applicators and commercial structural fumigation applicators and to make recommendations to the department.

Section 6. KRS 217B.545 is amended to read as follows:

(1) The department may suspend, revoke or modify the provision of any applicator's or manager's license issued under KRS 217B.515 to 217B.520 if it finds that the licensee has committed any of the acts set forth in KRS 217B.550.

(2) The ***license holder shall have ten (10) days upon the receipt of the notification of a proposed suspension, revocation, or modification of license to request a hearing*** [~~licensee has ten (10) days upon receipt of notification of proposed suspension, revocation or modification of license to request a hearing before the Pest Control Advisory Board. After receiving a request for a hearing, the department shall at least fifteen (15) days prior to the date set for the hearing, notify the applicant and the Pest Control Advisory Board in writing of the charges and the date and place of the hearing. Such written notice shall be served by delivery personally to the licensee or by certified mail, return receipt requested, to his last known address. The hearing shall be at the time and place prescribed by the Pest Control Advisory Board.~~

~~(3) Within ten (10) days of the hearing the board shall make a written recommendation to the department regarding the suspension, revocation, or modification of the license~~].

(3)[~~(4)~~] If a hearing is not requested as provided for in subsection (2) of this section, the department may suspend, revoke, or modify the license once the ten (10) day hearing request filing period has passed.

(4) Any licensee whose license is revoked under the provisions of this section shall not be eligible to apply for a new license until time has elapsed from the date of the order revoking the license as established by the department, not to exceed two (2) years, or if an appeal is taken from the order or revocation, not to exceed two (2) years from the date of the order or final judgment sustaining the revocation.

Section 7. KRS 217B.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for said violation, and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided in this section. Such penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department, or upon the department's request by the Attorney General.

(2) ***Any person who fails to abate a violation within the time period prescribed by administrative regulation for the abatement shall be assessed a civil penalty of not less than one hundred dollars ($100). Each day of continuing violation may be deemed a separate violation for the purpose of penalty assessment. The Commissioner shall develop a method for calculating monetary penalties and shall promulgate a schedule of the penalties in an administrative regulation. The penalty shall be recoverable in an action brought in the name of the Commonwealth. All sums of recovery shall be placed in the State Treasury. A license holder***

shall have thirty (30) days from notification of the penalty assessment to request a hearing.

(3) It shall be the duty of the department, or upon the request of the Commissioner of Agriculture, of the Attorney General to bring an action for the recovery of the penalties hereinabove provided for, and to bring an action for an injunction against any person violating or threatening to violate any provision of this chapter or violating or threatening to violate any order or determination of the department promulgated pursuant thereto. In any such action any finding of the department shall be prima facie evidence of the fact or facts found therein.

(4)[~~(3)~~] Any person who shall willfully violate any of the provisions of this chapter or any determination or order of the department promulgated pursuant to those sections which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5)[~~(4)~~] Any person who violates any of the provisions of KRS 217B.515 to 217B.585 or who fails to perform any duties imposed by those sections, or who violates any determination or order of the department promulgated pursuant thereto shall be liable to a civil penalty of not to exceed the sum of one thousand dollars ($1,000) for said violation, and an additional civil penalty of not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations as hereinafter provided for in KRS 217B.585. Such penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department, or upon the department's request by the Attorney General.

(6)[~~(5)~~] Any person who shall willfully violate any of the provisions of KRS 217B.515 to 217B.585 or any determination or order of the department promulgated pursuant to those sections which have become final shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which ***the*** [~~such~~] violation occurs shall constitute a separate violation.

Section 8. KRS 217B.585 is amended to read as follows:

It shall be the duty of the department, or upon the request of the Commissioner of Agriculture, of the Attorney General to bring an action for the recovery of the penalties provided for in KRS 217B.990***(5)***[~~(4)~~], and to bring an action for an injunction against any person violating or threatening to violate any provision of KRS 217B.515 to 217B.575 or violating or threatening to violate any order or determination of the department promulgated pursuant thereto. In any such action any finding of the department shall be prima facie evidence of the fact or facts found therein.

SCR 106, A CONCURRENT RESOLUTION directing a study relating to milk.

WHEREAS, Kentucky milk producers have experienced a wide range of prices they received for the milk they produce; and

WHEREAS, Kentucky milk producers should receive a fair price for their milk; and

WHEREAS, the state's milk producers should be protected from loss of income due to the insolvency of a milk processor;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Interim Joint Committee on Agriculture and Natural Resources is directed to study (a) alternative methods that could stabilize milk prices for dairy producers; and (b) alternative methods to reduce the financial exposure to producers if processors or other buyers of milk become insolvent.

Section 2. The University of Kentucky College of Agriculture and the state Department of Agriculture are requested to assist the committee if asked to do so by the committee.

Section 3. This report shall be submitted to the Legislative Research Commission no later than September 1, 1993.

Section 4. Staff services to be utilized in completing the study are estimated to cost $5,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Appropriations and Revenue reported **SB 417** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 417, AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.620 is amended to read as follows:

(1) To participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities. The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470(12). If the current levy of a district exceeds the required thirty cents ($0.30) and the five cents ($0.05), no additional tax shall be required. However, not less than five cents ($0.05) shall be committed under this subsection. The five cents ($0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment ***when committed to debt service. A district that levies the five cents ($0.05) and has not accepted an official offer of assistance from the School Facilities Construction Commission, made pursuant to KRS 157.611, may use receipts from the levy for other purposes as determined by the district board of education.***

(b) On July 29, 1985, and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.

(2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the Department of Education, to transfer funds restricted by KRS 157.611 to 157.640 for other school purposes.

(4) Not later than October 15 of the year immediately preceding the regular session of the General Assembly the State Board for Elementary and Secondary Education shall submit a statement to the School Facilities Construction Commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the State Board for Elementary and Secondary Education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the State Board for Elementary and Secondary Education since January 1, 1981, shall be revised by December 31, 1985. The State Board for Elementary and Secondary Education shall conduct public hearings on all amendments to approved plans.

(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of ***the*** [~~such a~~] plan, the local board may certify, by official action, the reason for such inconsistency and may request that the Department of Education resurvey the building needs of the district. After review of the data, the chief state school officer may require a resurvey and the approval of a new facility plan certified prior to an official offer from the School Facilities Construction Commission, and on or before January 15 of any subsequent year. If the chief state school officer elects to recommend the new facility plan to the State Board for Elementary and Secondary Education, the board shall notify the School Facilities Construction Commission of any change required in the statement of need for the district.

The Committee on Banking and Insurance reported **SB 195**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 195, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17-042 is amended to read as follows:

(l) All individual health insurance policies providing coverage on an expense incurred basis which provide coverage for a family member of the insured shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. ***The coverage shall also include those special medical formulas which are prescribed by a physician as medically necessary for treatment of phenylketonuria.***

(3) If payment of a specific premium or fee is required to provide coverage for a child the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one (31) day period.

(4) The requirements of this section shall apply to all health insurance policies delivered [~~in this state~~] on and after ***the effective date of this Act and which affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky*** [~~October 1, 1976~~].

Section 2. KRS 304.18-032 is amended to read as follows:

(1) All group or blanket health insurance policies and certificates issued thereunder providing coverage on an expense incurred basis which provide coverage for a family member of the insured or certificate holder shall, as to such family members' coverage also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or certificate holder from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. ***The coverage shall also include those special medical formulas which are prescribed by a physician as medically necessary for treatment of phenylketonuria.***

(3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one (31) day period.

(4) The requirements of this section shall apply to all insurance policies, and certificates issued thereunder, delivered or issued for delivery [~~in this state~~] on and after ***the effective date of this Act and which affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky*** [~~October 1, 1976~~].

Section 3. KRS 304.32-153 is amended to read as follows:

(1) All individual or group service or indemnity type contracts and all certificates thereunder issued by a nonprofit corporation which provide coverage for a family member of the member or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the member or subscriber from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. ***The coverage shall also include those special medical formulas which are prescribed by a physician as medically necessary for treatment of phenylketonuria.***

(3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the nonprofit service or indemnity corporation within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one (31) day period.

(4) The requirements of this section shall apply to all member or subscriber contracts, and all certificates thereunder, delivered or issued for delivery [~~in this state~~] on and after ***the effective date of this Act and which affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky*** [~~October 1, 1976~~].

Section 4. KRS 304.38-199 is amended to read as follows:

(1) All health maintenance organization contracts issued by health maintenance organizations which provide coverage for a family member of a subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the subscribed from the moment of birth.

(2) The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. ***The coverage shall also include those special medical formulas which are prescribed by a physician as medically necessary for treatment of phenylketonuria.***

(3) If payment of a specific premium or fee is required to provide coverage for a child, the policy or contract may require that the notification of birth of a newly born child and payment of the required premium or fees must be furnished to the health maintenance organization within thirty-one (31) days after the date of birth in order to have the coverage continued beyond such thirty-one (31) days.

(4) The requirements of this section shall apply to all contracts delivered or issued for delivery [~~in this state~~] on and after ***the effective date of this Act and which affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky*** [~~July 15, 1982~~].

The Committee Amendment No. 1 to **SB 195** is as follows:

Amend printed copy of **SB 195/GA** on page 2, lines 4, 8, and 9 by deleting the brackets and strikethroughs; and

On page 2, lines 5, 6, 7, and 8 by deleting all underlined material; and

On page 3, lines 10, 11, 14, and 15 by deleting the brackets and strikethroughs; and

On page 3, lines 11, 12, 13, and 14 by deleting all underlined material; and

On page 4, lines 17, 18, 21, and 22 by deleting the brackets and strikethroughs; and

On page 4, lines 18, 19, 20, and 21 by deleting all underlined material; and

On page 5, lines 22, 23, and 26 by deleting the brackets and strikethroughs; and

On page 6, line 1, by deleting the bracket and strikethroughs; and

On page 5, lines 23, 24, 25, and 26 by deleting all underlined material.

The Committee Amendment No. 2 to **SB 195** is as follows:

Amend printed copy of **SB 195/GA** on page 1, line 1, before "Section 1." by inserting the following new section:

"Section 1. KRS 18A.2281 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 18A.225, the Department of Personnel may establish a state employee benefit fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the secretary of the Finance and Administration Cabinet as provided in KRS 18A.225(2). All moneys remaining in this fund at the end of the fiscal year, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.

(2) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents. ***The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities. The coverage shall also include those special medical formulas which are prescribed by a physician as medically necessary for treatment of phenylketonuria.***

(3) The contributions made to the benefit fund may be paid:

(a) Wholly from funds contributed by the covered employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any amount due over that contributed by the state or department, board, or agency for coverage shall be paid by the employee.

(4) No contribution by the state or department, board, or agency shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of such employee. Any expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the Department of Personnel may approve.

(6) Group rates under the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits."

And on page 1, line 1 after the word "Section" by deleting the number "1" and inserting in lieu thereof the number "2";

And on page 2, line 10, after the word "Section" by deleting the number "2" and inserting in lieu thereof the number "3";

And on page 3, line 16, after the word "Section" by deleting the number "3" and inserting in lieu thereof the number "4";

And on page 4, line 23, after the word "Section" by deleting the number "4" and inserting in lieu thereof the number "5".

The Committee Amendment No. 3 to **SB 195** is as follows:

Amend printed copy of **SB 195/GA** on page 6, after line 1, by adding:

"Section 5. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(9) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(10) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(11) The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Congressional districts, members representing state government from each of the seven Congressional districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(12) The secretary of the Finance and Administration Cabinet and the commissioner of the Department of Personnel, in procurement of a policy or polices of health insurance or health maintenance organization coverage for state employees pursuant to this section, shall not discriminate among health care providers approved under this section in:

(a) The level of funding or reimbursement;

(b) The amount of access to state employees for the purpose of providing information on coverages and options; and

(c) The service area access of each individual health care provider as approved by the commissioner of the Department of Insurance."

The Committee on Cities reported **SB 158**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 158, AN ACT relating to municipal boundaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 83A.060(7), a city which proposes to annex unincorporated territory shall send notice of the proposed annexation to each property owner whose property would be annexed into the city. The notice shall be sent by certified mail at least fourteen (14) days prior to the meeting at which the ordinance proposing the annexation will receive its second reading.

(2) The notice required in subsection (1) of this section shall include the time, date, and location of the meeting at which the proposed ordinance will receive its second reading, and a copy of the proposed ordinance.

(3) If a city fails to notify an affected property owner pursuant to this section, the ordinance which effectuates the annexation shall be voidable in an action brought in the Circuit Court of competent jurisdiction.

The Committee Substitute to **SB 158** is as follows:

SB 158, AN ACT relating to municipal boundaries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 81A IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 83A.060(7) and except as otherwise provided in this section, a city which proposes to annex unincorporated territory shall send notice of the proposed annexation to each property owner whose property is proposed to be annexed into the city.

(2) The notice shall be sent to each property owner listed on the records of the county property valuation administrator as of January 1 of the year in which the ordinance proposing to annex property is to be enacted.

(3) The notice shall be sent by first-class mail no later than fourteen (14) days prior to the meeting at which the ordinance proposing the annexation shall receive its second reading. The city clerk shall certify the list of property owners to whom the notice was sent and the certified list shall be made a part of the official record of the meeting at which the ordinance proposing the annexation receives its second reading.

(4) The notice shall include the time, date, and location of the meeting at which the proposed ordinance shall receive its second reading, and a copy of the proposed ordinance.

(5) The provisions of this section shall not apply in any case in which the property owners of record have consented in writing to the proposed annexation as provided in KRS 81A.412.

(6) Notwithstanding the provisions of KRS 424.130, following the second reading and enactment of an ordinance proposing to annex property, a city shall be required to publish the ordinance only once in accordance with KRS 83A.060(9).

(7) The ordinance which effectuates an annexation shall be voidable in an action brought in the Circuit Court of competent jurisdiction, if the court determines that the city failed to substantially comply with the requirements of this section, and the failure resulted in material prejudice to the substantial rights of affected property owners.

The Committee on Natural Resources and Environmental Protection reported **SB 56**, **SB 118**, **SB 372**, **SB 381** and **SJR 108** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 56, AN ACT relating to solid waste management plans and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 109 IS CREATED TO READ AS FOLLOWS:

(1) As to any county for which an initial county or area solid waste management plan was not approved by the cabinet as of March 15, 1992, a county solid waste management plan submitted to the cabinet shall not become effective if fifty-one (51) percent of the registered voters eligible to vote in the last Presidential election sign and file a petition with the county clerk and the cabinet requesting submission of the plan to voter approval. The petition shall be filed within one hundred fifty (150) days of the fiscal court vote approving the plan.

(2) If the county clerk determines that the petition is in proper order, the clerk shall certify the petition to the fiscal court. The fiscal court shall direct that the question be placed before the voters at a special election held less than sixty (60) days from the certification of the petition. The fiscal court shall bear the costs of advertising and placing the question before the voters.

(3) The county clerk shall advertise the question as provided in KRS Chapter 424 and shall instruct the voters to vote "yes" or "no" on acceptance of the solid waste management plan. The results of the vote shall be certified to the fiscal court of the county and the cabinet. The cabinet shall not approve a county solid waste management plan if at least sixty (60) percent of those voting vote "no."

(4) The provisions of this section shall not apply to any subsequent plan submitted by any county.

(5) For the purposes of subsection (1) of this section, "initial" means the first part of the solid waste management plan described in KRS 224.43-345(2). For the purposes of subsection (4) of this section, "subsequent" means the second part of the plan described in KRS 224.43-345(2), or any amendments to the first part of the plan.

Section 2. Whereas solid waste management plans are presently being approved by county fiscal courts without voter approval, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SB 118, AN ACT relating to waste management and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 40 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall not permit the off-site disposal of construction or demolition waste at a site less than one (1) acre unless as a minimum, the following conditions are imposed:

(a) The applicant shall provide a written certification that a copy of the application has been delivered to the governing body of the solid waste management area and that disposal of construction and demolition waste at the proposed site will not violate local land use regulations;

(b) Disposal shall only occur during daylight hours in accordance with a posted schedule that will allow inspection by local or state officials;

(c) The applicant shall erect on the site a sign clearly indicating that the site is permitted for disposal of construction and demolition debris only, and the operating hours shall appear on the sign along with the applicant's permit number;

(d) The cabinet shall establish a schedule for closing and covering the site, including provisions for intermediate cover when flammable waste is involved;

(e) Notwithstanding any other provision of law, the applicant shall not allow the disposal of tires in a waste disposal facility regulated by this section; and

(f) The cabinet shall require the applicant to post a bond in the amount of ten thousand dollars ($10,000) to insure compliance with the conditions of the permit.

(2) The cabinet may waive the requirement of subsection (1)(b) of this section, that the hours of operation shall be posted, and the requirements of subsection (1)(c) and (d) of this section, if the cabinet determines that the area of land to be affected, the limited duration of the disposal operation, or the materials to be disposed of do not require imposition of these standards to assure the safety of the public.

(3) This section shall not apply to beneficial reuse of industrial solid waste.

Section 2. Whereas, construction demolition/debris landfills are presently being constructed without adequate oversight by the cabinet, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SB 372, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 211.970 TO 211.982 IS CREATED TO READ AS FOLLOWS:

(1) Any vehicle licensed to haul sewage or sewage sludge pursuant to the provisions of this chapter shall be dedicated for those purposes only and shall not be used for hauling any product or substance intended for human or animal consumption.

(2) Any vehicle licensed to haul sewage, sewage sludge, or grease shall be prohibited from hauling any substances or materials classified as hazardous substances or hazardous waste constituents.

SECTION 2. A NEW SECTION OF KRS 211.970 TO 211.982 IS CREATED TO READ AS FOLLOWS:

(1) All sewage or sewage sludge hauled pursuant to the provisions of KRS 211.970 to 211.982 shall be disposed of in a publicly-owned sewage treatment plant, unless it is demonstrated to the satisfaction of the cabinet that a publicly-owned sewage treatment plant does not exist within a reasonable hauling distance from the site at which the sewage or sewage sludge is received, or the publicly-owned sewage treatment plant refuses to accept the sewage or sewage sludge.

(2) If the cabinet determines that no publicly-owned sewage treatment plant is available for use by a licensed hauler, the cabinet may approve an alternative mode of disposal including, but not limited to, landspreading. The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A governing landspreading and other acceptable modes of disposal which insure:

(a) That no contamination threat is posed to surface waters from any run-off; and

(b) That all reasonable protection is afforded to prevent contamination of groundwater.

(3) Trenching of sewage and sewage sludge shall be prohibited except where specifically authorized by the cabinet.

Section 3. KRS 211.970 is amended to read as follows:

As used in KRS 211.972 to 211.982, unless the context requires otherwise:

(1) ***"Approved" means that which has been considered acceptable to the cabinet;***

(2) "Cabinet" means the cabinet for human resources ***and includes its authorized agents***;

[~~(2) "Department" means the department for health services;~~]

(3) ***"Grease" means fats or oils of animal, vegetable, or mineral origin, separately or in colloidal or dissolved states in combination with soaps, detergents, or food particles*** [~~"Commissioner" means the commissioner of the department for health services~~];

(4) ***"Grease trap" means a component designed to separate grease and its constituents from the wastewater stream, provide for storage of separated grease, and discharge the remaining wastewater for treatment*** [~~"Cesspool" means a cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil~~];

(5) ***"Holding tank" means a tank which provides limited pretreatment and storage for off-site disposal where site limitations preclude immediate installation of a subsurface soil absorption system, or connection to a municipal sewer. It also includes portable toilets and similar temporary use units which contain holding tanks;*** [~~"Seepage pit" means a dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank~~];

(6) ***"Person" means any individual, firm, association, organization, partnership, business trust, corporation, company or governmental unit*** [~~"Septic tank" means a septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes~~];

(7) ***"Secretary" means the secretary of the Cabinet for Human Resources;***

(8) "Sewage" means domestic blackwater and greywater wastes, but does not include waste from industrial or commercial processes;

(9) "Sewage pretreatment unit" means a watertight sewage treatment structure designed and constructed to receive raw sewage, separate solids from liquids, digest organic matter through a period of retention, and allow clarified effluent to discharge to a subsurface soil absorption system. Pretreatment units fall into three (3) basic categories:

(a) Septic tanks, which rely predominantly on anaerobic bacterial action for treatment;

(b) Aerobic units, which introduce atmospheric air into the sewage to promote treatment by aerobic bacteria; and

(c) Combination units, which provide treatment through both anaerobic and aerobic bacterial action and mechanical filtering, ozonation, or ultraviolet irradiation.

(10) "Sewage sludge" means the solid or semisolid residues which are retained within a sewage pretreatment unit or grease trap, as a result of mechanical, hydraulic, biologic, or chemical actions. It also includes raw sewage accepted and stored within a holding tank;

(11) "Site" means a facility or parcel of land under the ownership of any person which is intended for use as the ultimate disposal or treatment location for sewage sludge.

(12) "Tank" means any container [~~when~~] placed on a vehicle to carry in transport ***sewage sludge*** [~~wastes~~] removed from a ***sewage pretreatment unit, grease trap, or holding tank*** [~~septic tank, cesspool, or seepage pit~~].

Section 4. KRS 211.972 is amended to read as follows:

No person shall engage in [~~or offer to engage in or carry on~~] the business of servicing or maintaining ***sewage pretreatment units*** [~~septic tanks~~], ***grease traps*** [~~seepage pits~~] or ***holding tanks, or the transporting of sewage sludge from those facilities*** [~~cesspools~~] within the Commonwealth of Kentucky ***without being*** [~~unless duly~~] licensed and bonded as hereinafter provided.

Section 5. KRS 211.974 is amended to read as follows:

Nothing in KRS 211.972 to 211.982 shall be construed to require a business license for:

(1) A property owner to clean his own ***sewage pretreatment unit*** [~~septic tank~~], ***grease trap*** [~~seepage pit~~] or ***holding tank*** [~~cesspool~~].

(2) A municipality servicing and maintaining a public sewage treatment facility.

(3) A ***master*** plumber, duly qualified and licensed under the laws of the State of Kentucky, except that vehicles which are used as defined in KRS 211.972 to 211.982 shall be licensed as provided.

Section 6. KRS 211.976 is amended to read as follows:

(1) All persons proposing to engage [~~Each person engaged~~] in [~~such~~] business for the purposes ***of this chapter*** [~~aforesaid~~] shall file an application ***for licensing on forms provided by the cabinet*** [~~directly with the commissioner~~] with [~~such~~] information ***specifying that waste hauling is restricted to household sewage or sludge only; commercial or industrial sanitary sewage or sludge only; grease trap sewage or sludge only; or combinations of the above. Other information deemed necessary, as well as the required fee, shall accompany the application. The secretary may establish a fee schedule according to authorization in the state budget document*** [~~as he may require. The application shall state the nature of the business, the post office address of the applicant, and the post office address at or from which the business is to be continued. If the applicant shall operate a branch or other places of business, the application shall so state. The application shall state any additional information as the commissioner may require. The application to engage in the business as herein defined shall be accompanied by a license fee of twenty-five dollars ($25), payable to the Department for Health Services~~].

(2) If the ***cabinet*** [~~commissioner~~], after ***any*** [~~such~~] investigation ***it*** [~~as he~~] deems necessary, ***finds*** [~~is satisfied~~] that the applicant has the qualifications, experience, reputation and ***approved site for disposal necessary*** [~~equipment~~] to perform the ***service*** [~~services~~] in ***an acceptable*** [~~a satisfactory~~] manner and not detrimental to the environment or to public health, ***it*** [~~he~~] shall issue or cause to be issued a license for the said business. ***This license is not transferable.*** The application for [~~such~~] license shall be made to the ***cabinet*** [~~commissioner~~] prior to March 1 of each year, and shall be accompanied by a surety bond tendered by a company registered in the Commonwealth of Kentucky, to indemnify persons for whom service and maintenance work is performed, if faulty***, and to guarantee disposal of sewage sludge in an approved manner***; or with [~~such~~] sureties, form and sufficiency ***acceptable to*** [~~as shall be approved by~~] the ***cabinet*** [~~commissioner~~]. [~~Such~~] Bonds shall be in the amount of ***two*** [~~one~~] thousand dollars ***($2,000)*** [~~($1,000) for residents of the State of Kentucky and five thousand dollars ($5,000) for nonresidents~~]. The ***cabinet*** [~~commissioner~~] shall be the obligee, and the bond shall be for the benefit and purpose to protect all persons ***and the environment*** damaged by faulty workmanship in the servicing or maintaining of ***sewage pretreatment units*** [~~septic tanks~~], ***grease traps*** [~~cesspools~~] or ***holding***

tanks [~~seepage pits~~]***, or in the disposal of sewage sludge*** and shall guarantee the appearance of the licensee to answer any summons within thirty (30) days of notice to the bonding company of the issuance of [~~such~~] summons. [~~Such~~] Bonds shall be conditioned upon the performance of the services in a workmanlike [~~and hygienic~~] manner***, and in a manner which will not create a public health hazard nor damage the environment.***

Section 7. KRS 211.978 is amended to read as follows:

(1) All trucks or other vehicles used to transport or carry wastes from ***sewage pretreatment units*** [~~septic tanks~~], ***grease traps*** [~~cesspools~~] or ***holding tanks*** [~~seepage pits~~] shall ***be licensed*** [~~carry a license~~] by the ***cabinet*** [~~secretary for inspection by his representative or any law enforcement agent~~]. The application for ***this*** [~~such~~] vehicle license shall be made prior to March 1 of each year ***on forms provided by the cabinet***, and shall state ***any*** [~~the make, model and year of such vehicle, as well as the capacity of the tank used in the removal of said wastes from septic tanks, cesspools and seepage pits, and also such other~~] information ***that*** [~~as~~] the ***cabinet*** [~~secretary~~] shall ***deem necessary*** [~~require~~]. ***The secretary may establish a fee schedule according to authorization in the state budget document*** [~~Each application shall be accompanied by a license fee of ten dollars ($10) for each vehicle sought to be licensed, payable to the Treasurer of the Commonwealth of Kentucky~~].

(2) If the ***cabinet*** [~~secretary~~], after ***any*** [~~such~~] investigation ***it*** [~~as he~~] deems necessary, ***finds*** [~~is satisfied~~] that ***the*** [~~such~~] truck or vehicle and equipment is ***acceptable*** [~~proper and hygienic~~] for ***the purposes of this chapter*** [~~said purpose~~], ***it*** [~~he~~] shall issue or cause to be issued a license for the use of ***the*** [~~said~~] vehicle for ***the purpose of this chapter*** [~~said purpose~~]. This license is not transferable from one vehicle to another, and [~~all licenses shall expire on the last day of February of each year. In addition to the vehicle license, which~~] shall be carried on the vehicle at all times.[~~,~~] There shall be painted on both sides ***and the rear*** of ***the*** [~~said~~] vehicle in letters not less than two inches high the ***letters "K.Y."***, [~~words "K.B.H.S. licensed vehicle," and said words shall be~~] followed ***by the assigned*** [~~with~~] vehicle license number.

Section 8. KRS 211.980 is amended to read as follows:

The secretary shall issue administrative regulations pursuant to the provisions of KRS Chapter 13A dealing with vehicle tank and equipment requirements; conduct of business; approval of disposal or treatment sites and methods; inspection and administrative enforcement procedures, including suspension or revocation of licensing; injunctive action; and, any other matters deemed necessary to protect public health and the environment.

[~~(1) The tank shall be kept tightly closed in transit to prevent the escape of contents or odors, and the outside of all vehicles and accessory equipment shall be kept clean.~~

~~(2) Waste from any septic tank, seepage pit or cesspool may be dumped into any municipal or public sewage treatment system by any licensee under this section at a time and place approved by the municipal or public sewage system owner or designated representative upon payment of a reasonable fee not to exceed the sum of ten dollars ($10) per one thousand (1,000) gallon load; provided it is determined by the Natural Resources and Environmental Protection Cabinet with the concurrence of the system owner or representative that such will not disrupt or impair the efficient operation of the treatment plant.~~

~~(3) In the absence of such municipal disposal facilities, wastes may be buried on private property in locations over two hundred (200) yards from any residence, public or private place of business, public gathering place or public thoroughfare, subject to written approval of the property owner. Said written approval must be preserved and carried on the vehicle for inspection; all such wastes must be so disposed of, as to create no public nuisance or health hazard. Burial may be required by the cabinet.~~

~~(4) Waste removed from septic tanks, seepage pits or cesspools may be buried on the property from which it originates at least seventy-five (75) feet from any water supply and twenty-five (25) feet from any body of water, provided it is covered with at least twelve (12) inches of earth and protected until settled.~~

~~(5) Under no conditions shall dumping be permitted into or adjacent to any public or private lake, pond, stream, river or any other body of water, nor shall any vehicle be permitted to pump directly from such body of water into said vehicle for flushing and cleaning the tank or other equipment on the vehicle.~~

~~(6) All services shall be conducted in a responsible manner and the property served left in a sanitary condition.~~

~~(7) After such services are rendered, the licensee or his service representative shall furnish the customer with a signed receipt upon payment in full for services, which receipt carries the business name and address, name of the owner of the business and K.B.H.P. vehicle license number as required under KRS 211.978.~~]

Section 9. KRS 211.982 is amended to read as follows:

All money paid to the State Treasurer for licenses and fees required by KRS 211.972 to 211.980 ***and regulations promulgated pursuant to KRS Chapter 13A*** shall be for the sole use of the cabinet and shall be in addition to any moneys appropriated by the General Assembly for the use of the cabinet.

Section 10. KRS 211.995 is amended to read as follows:

(1) Any person who shall violate or refuse to comply with any of the provisions of KRS 211.972 to 211.982 ***or regulations promulgated pursuant thereto*** shall be guilty of a misdemeanor punishable by a fine of not less than ***one hundred dollars ($100)*** [~~twenty-five dollars ($25)~~] nor more than ***five*** [~~one~~] hundred dollars ***($500)*** [~~($100)~~] and when such violation is of a continuing nature, each day upon which a violation occurs shall be deemed a separate offense.

(2) In addition to any criminal penalty imposed under this section, any person who violates or refuses to comply with any of the provisions of KRS 211.972 to 211.982 shall be subject to a civil penalty not to exceed the sum of five thousand dollars ($5,000).

(3) The secretary may, at his or her discretion, revoke any license issued pursuant to KRS 211.972 to 211.982 upon confirmation that a licensee has committed a third or subsequent violation of those sections.

SB 381, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

The cabinet shall allow the use of a soil test or other simplified procedures to determine if soil productivity on mined prime farmlands has been restored to levels that would allow average crop yields to equal or exceed the average yield of the reference crop, provided the methods are approved by the Office of Surface Mining.

SECTION 2. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

The cabinet shall encourage research and data collection to determine the validity of using a soil test or other simplified procedure to determine if mined prime farmland soils will meet yield requirements.

SJR 108, A JOINT RESOLUTION regarding restoration of surface mined prime farmland.

WHEREAS, certain requirements for reclamation on prime farmland imposed by the Office of Surface Mining and the state are onerous, impractical, expensive, and unnecessary to satisfactory reclamation; and

WHEREAS, the procedure for showing that soil productivity has been restored on prime farmland after mining requires using a reference crop and the determination of yields for a minimum of three (3) years; and

WHEREAS, in areas where row crops are the dominant crops grown on prime farmland, the row crop requiring the greatest rooting depth must be chosen as one of the reference crops; and

WHEREAS, an operator may be required to grow corn or other crops on the mined cropland when neither he nor the landowner may have any interest in growing those crops; and

WHEREAS, there appear to be other more practical and equally effective ways of determining whether soil productivity has been restored on prime farmland; and

WHEREAS, it is likely that a simple soil test could be developed to determine if the productivity has been restored;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department for Surface Mining Reclamation and Enforcement be directed to promulgate administrative regulations, procedures, experimental practices, or other methods to encourage a simplified procedure for determining soil restoration after mining.

Section 2. That University of Kentucky researchers and any others involved be commended for research that has been carried out which could support the substitution of a soil test for the present complicated procedure used to show soil restoration.

Section 3. That the University of Kentucky and other entities be encouraged to continue research to determine alternatives to present soil restoration tests to include a simple soil test.

Section 4. That the Office of Surface Mining and other federal, state, and private organizations be encouraged to fund such research and that the Office of Surface Mining be encouraged to accept research data on the subject and to approve alternative procedures for determining soil restoration on mined prime farmland.

Section 5. That this resolution be sent to the Department for Surface Mining Reclamation and Enforcement, the federal Office of Surface Mining, the University of Kentucky, and the Interstate Mining Compact Commission.

The Committee on State Government reported **SB 60**, with Committee Amendments and Title Amendment attached thereto, and **SB 63**, with Committee Amendments and Title Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 60, AN ACT relating to disability retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.600 is amended to read as follows:

(1) An employee with sixty (60) months of service, twelve (12) months of which shall be current service, may retire at any time before his normal retirement date on account of disability upon written notification to the board. Application for disability benefits shall be made within twelve (12) months of his last paid day of employment. ***Upon receipt of certified documentation of treatment from the member's licensed physicians, the system may waive the twelve (12) month limit in cases in which the member was undergoing treatment with the expectation that he might regain his capacity for employment. In no case shall application be made later than twenty-four (24) months from the member's last day of paid employment in a regular full-time position.*** Upon the examination by licensed physicians, it shall be determined that the employee, since his last day of paid employment, has been mentally or physically incapacitated to perform his job or jobs of like duties from which he received his last paid employment and that the disability did not pre-exist at the time of membership in the system or upon reemployment, except in case where a disabled recipient has returned to work on a trial basis and is a result of bodily injury, mental illness, or disease and that the incapacity is deemed to be permanent.

(2) A disability shall be deemed to be permanent if that disability is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the employee's last day of paid employment. For the purposes of determining permanence under this section, the board's medical examiners shall use the medical criteria under the Social Security disability program.

(3) Employees who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (2) of this section.

The Committee Amendment No. 1 to **SB 60** is as follows:

Amend printed copy of **SB 60/GA** on page 2, line 16, by adding thereafter the following:

"Section 2. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase of military service credit pursuant to subsection (2) of this section, or by transfer of credit as provided in subsection (6) of this section.

(2) (a) Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system fifty percent (50%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

(b) ***A member who has purchased military service in a retirement system administered by Kentucky Retirement Systems pursuant to KRS 61.555 may transfer that military service credit to the Legislators' Retirement Plan. If the member chooses to transfer his credit, the retirement system from which the transfer is made shall transfer to the Legislators' Retirement Plan the payment which the member made to that system pursuant to KRS 61.555, treated as a lump sum, plus interest compounded at the rates assumed by the system in its annual actuarial valuation from the time the lump sum was paid until the time of transfer. The member shall pay the Legislators' Retirement Plan fifty percent (50%) of the actuarial cost of the service, as determined by the board of trustees, minus the full amount transferred by the other retirement system.***

(c) The beneficiary may purchase military service credit ***pursuant to paragraph (a) of this subsection*** only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit ***pursuant to paragraph (a) or (b) of this subsection*** at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(d)[~~(c)~~] The payments made under this section shall be considered accumulated contributions of the member and shall not be picked-up by the employer pursuant to KRS 6.505(2).

(e)(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the armed forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection ***(3)***[~~(2)~~] of this section.

(6) A member who has qualified for benefits pursuant to KRS 6.525(1) may[~~, until July 1, 1991,~~] transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in the County Employees' Retirement System. If the member elects to transfer his County Employees' Retirement System service credit, that system shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the County Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred by the County Employees' Retirement System and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. ***The member may pay by lump sum or by increments, as provided for in subsection (2)(b) of this section.***"

The Committee Amendment No. 2 to **SB 60** is as follows:

Amend printed copy of **SB 60/GA** on page 2, line 16, by adding thereafter the following:

"Section 2. KRS 156.026 is amended to read as follows:

(1) For purposes of this section, full-time service in a local school for not less than one hundred forty (140) days during the school year entitles an employee who transfers to the Department of Education to a full year of experience credit on the Department of Personnel pay schedule and a full year for the purpose of accumulation of annual leave and sick leave in the Department of Education.

(2) An employee of a local school district who transfers to become an employee of the Department of Education after June 30, 1983, shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3). The employee shall be allowed credit for each year of experience in the local school system for the purposes of determining salary in accordance with the current Department of Personnel pay schedule, and the rate of accumulation of annual and sick leave in the Department of Education.

(3) For purposes of determining eligibility for additional leave or other benefits based on longevity of service, an employee transferring from a school district to the Department of Education after June 30, 1983, shall be given credit for each year of service in the school district, as determined under subsection (1) of this section.

(4) An employee of a local school district who transfers to become an employee of the legislative branch, the judicial branch, or the executive branch other than in the Department of Education shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3), but not exceeding those limits established by statute or administrative regulations for employees of the executive, legislative, or judicial branches respectively. The employee shall be allowed credit for each year of experience with the local school district for the purposes of determining the rate of accumulation of annual and sick leave in the executive, legislative, or judicial branches. For the purposes of determining eligibility for additional leave or other benefits based on longevity of service, the employee shall be given credit for each year of service in the school district. A year of service with the local school district shall be not less than one hundred and forty (140) days during the school year. An employee of the legislative branch, judicial branch, or executive branch of government who transfers to become an employee of a local school district shall be allowed to transfer accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3).

Section 3. Because it is the intent of Section 2 of this Act to deal equitably with all employees and to encourage the movement of employees among school districts and other branches of government to further the purposes of education reform, the effect of Section 2 of this Act shall be retroactive to July 1, 1990."

The Committee Title Amendment to **SB 60** is as follows:

Amend printed copy of **SB 60/GA** on page 1, by amending the title to read "AN ACT relating to employee benefits."

SB 63, AN ACT relating to the ethics of officers and public servants in the executive branch.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 11A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

This chapter may be cited as the "Executive Branch Code of Ethics."

SECTION 2. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) It is the public policy of this Commonwealth that a public servant shall work for the benefit of the people of the Commonwealth. The principles of ethical behavior contained in this chapter recognize that public office is a public trust and that the proper operation of democratic government requires that:

(a) A public servant be independent and impartial;

(b) Government policy and decisions be made through the established processes of government;

(c) A public servant not use public office to obtain private benefits; and

(d) The public has confidence in the integrity of its government and public servants.

(2) The principles of ethical behavior for public servants shall recognize that:

(a) Those who hold positions of public trust, and members of their families, also have certain business and financial interests;

(b) Those in government service are often involved in policy decisions that pose a potential conflict with some personal financial interest; and

(c) Standards of ethical conduct for the executive branch of state government are needed to determine those conflicts of interest which are substantial and material or which, by the nature of the conflict of interest, tend to bring public servants into disrepute.

SECTION 3. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the State Board for Elementary and Secondary Education, the State Board for Adult and Technical Education, and any other management personnel with procurement authority;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Superintendent of Public Instruction;

(h) The Auditor of Public Accounts;

(i) Each Railroad Commissioner; and

(j) All employees in the executive branch including officers as defined in subsection (7) of this section of this Act and merit employees; and

(10) "State agency" means every state office, department, division, board, commission, institution, public corporation, and authority within the executive branch.

SECTION 4. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) No public servant, by himself or through others, shall knowingly:

(a) Use or attempt to use his influence in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest;

(b) Use or attempt to use any means to influence a public agency in derogation of the state at large;

(c) Use his official position or office to obtain financial gain for himself or any members of the public servant's family; or

(d) Use or attempt to use his official position to secure or create privileges, exemptions, advantages, or treatment for himself or others in derogation of the public interest at large.

(2) If a public servant appears before a state agency, he shall avoid all conduct which might in any way lead members of the general public to conclude that he is using his official position to further his professional or private interest.

(3) When a public servant abstains from action on an official decision in which he has or may have a personal or private interest, he shall disclose that fact in writing to his superior, who shall cause the decision on these matters to be made by an impartial third party.

SECTION 5. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

In determining whether to abstain from action on an official decision because of a possible conflict of interest, a public servant should consider the following guidelines:

(1) Whether a substantial threat to his independence of judgment has been created by his personal or private interest;

(2) The effect of his participation on public confidence in the integrity of the executive branch;

(3) Whether his participation is likely to have any significant effect on the disposition of the matter;

(4) The need for his particular contribution, such as special knowledge of the subject matter, to the effective functioning of the executive branch; or

(5) Whether the official decision will affect him in a manner differently from the public or will affect him as a member of a business, profession, occupation, or group to no greater extent generally than other members of such business, profession, occupation, or group. A public servant may request an advisory opinion from the Executive Branch Ethics Commission in accordance with the commission's rules of procedure.

SECTION 6. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) No public servant, in order to further his own economic interests, or those of any other person, shall knowingly disclose or use confidential information acquired in the course of his official duties.

(2) No public servant shall knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

(3) No public servant shall knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) No public servant shall knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by any state agency. This provision shall not apply to a contract or purchase made pursuant to KRS Chapter 416 relating to eminent domain.

(5) No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

(6) No present or former public servant shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with the state in matters in which he was directly involved during his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or

profession in which he was involved prior to taking office or beginning his term of employment. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers.

(7) A former public servant shall not register as a lobbyist or lobbyist's principal for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(8) A former public servant shall not represent a person in a matter before a state agency in which the former public servant was directly involved, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

SECTION 7. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) Each officer and each public servant listed in Section 3(9)(a) to (i) of this Act shall file a statement of financial disclosure with the commission, as follows:

(a) Each officer and each public servant listed in Section 3(9)(a) to (i) of this Act appointed to or employed in any position as of January 1 of any year shall file the statement for the preceding calendar year, complete through December 31, with the commission on or before April 15 of each year.

(b) Each officer and each public servant listed in Section 3(9)(a) to (i) of this Act appointed to or employed in any position after January 1 of any year shall file the statement reflecting the previous calendar year with the commission no later than thirty (30) days after the date of appointment or employment.

(2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.

(3) The statement shall include the following information for the preceding calendar year:

(a) Name and entire residential and business address of filer;

(b) Title of position or office whereby filing is required;

(c) Any other occupations of filer;

(d) Positions held by the filer in any business, partnership, or corporation for profit;

(e) Names and addresses of all businesses in which the filer has or had an interest of ten thousand dollars ($10,000) at fair market value or five percent (5%) ownership interest or more;

(f) Sources of gross income of the filer, as well as information concerning the nature of the business, and the form of the income;

(g) Sources of retainers received by the filer;

(h) Any representation or intervention for compensation by the filer for any person before policy-making entities in state government;

(i) All positions of a fiduciary nature in a business;

(j) Information regarding any real property in which there is an interest of ten thousand dollars ($10,000) or more held by the filer;

(k) Sources of gifts of money or property with a retail value of more than two hundred dollars ($200) to the filer, except those from spouse, parents, or grandparents; and

(l) Identity of creditors owed more than ten thousand dollars ($10,000), except debts arising from the purchase of consumer goods.

Paragraphs (a) to (l) of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

SECTION 8. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) The Executive Branch Ethics Commission is hereby established.

(2) The commission shall be composed of five (5) members appointed by the Governor.

(3) Members of the commission shall serve staggered terms of four (4) years. Of the initial members appointed as provided in this section, one (1) member shall serve a term of one (1) year; one (1) member shall serve a term of two (2) years, one (1) member shall serve a term of three (3) years, and two (2) members shall be appointed for terms of four (4) years. Thereafter, all appointments shall be for four (4) years.

(4) The commission shall elect from its membership a chairman and vice chairman. In the absence of the chairman or in the event of a vacancy in that position, the vice chairman shall serve as chairman.

(5) A member of the commission shall receive one hundred dollars ($100) per day for attending meetings and shall be reimbursed for actual and necessary expenses incurred in the performance of duties.

(6) All members shall be registered voters of the state.

(7) Members of the commission shall be removed by the Governor for cause only, including substantial neglect of duty, inability to discharge the powers and duties of office, and violation of subsection (5) or (6) of Section 6 of this Act.

(8) A quorum shall consist of three (3) or more members. An affirmative vote of three (3) or more members shall be necessary for commission action.

(9) The commission shall meet at the call of the chairman or a majority of its members.

SECTION 9. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

The commission may employ an executive director and any other employees, agents, and consultants it considers necessary, and may prescribe their duties, fix their compensation, and provide for reimbursement of their expenses within the amount available therefor by appropriation. The commission may also engage outside professional counsel it considers necessary. The commission and its staff may also make use of the services and facilities of the office of the Attorney General or of any other state agency.

SECTION 10. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall investigate any alleged violation of this chapter.

(b) Not later than ten (10) days after the commission receives the complaint, the commission shall initiate a preliminary inquiry into any alleged violation of this chapter.

(c) Within thirty (30) days of the commencement of the inquiry, the commission shall forward a copy of the complaint and a general statement of the applicable law to the person alleged to have committed a violation.

(2) All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except:

(a) The commission may turn over to the Attorney General, the United States Attorney, or the Commonwealth's Attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings; and

(b) If the complainant or alleged violator publicly discloses the existence of a preliminary investigation, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party.

(3) If the commission determines in the preliminary investigation that the complaint does not allege facts sufficient to constitute a violation of this chapter, the commission shall immediately terminate the inquiry and notify in writing the complainant and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the resolution and, in its discretion, make public any documents which were issued to the alleged violator.

(4) If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission may, upon majority vote:

(a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, in writing, confidentially reprimand the alleged violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any. If the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or

(b) Initiate an adjudicatory proceeding to determine whether there has been a violation.

SECTION 11. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

For the purpose of carrying out a preliminary investigation or an adjudicatory proceeding, the commission may issue subpoenas to compel the attendance and testimony of witnesses or the production of documents, books, papers, or other records. Subpoenas may be issued by the chairman or the majority of the members of the commission and shall be served in the same manner as subpoenas for witnesses in civil cases. All provisions of law relative to subpoenas issued in such cases, including compensation of witnesses, shall apply to subpoenas issued by the commission. Upon petition by the commission, any Circuit Court within the jurisdiction of which any inquiry is being carried on may, in case of refusal to obey a subpoena or *order of the commission, issue an order requiring compliance. Any failure to obey the order of the court may be punished by the court as contempt thereof.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall apply to all commission adjudicatory hearings. All testimony in a commission adjudicatory proceeding shall be under oath. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel and any other due process rights, privileges and responsibilities of a witness appearing before the courts of the Commonwealth of Kentucky. Before testifying, all witnesses shall be given a copy of the regulations governing commission proceedings. All witnesses shall be entitled to be represented by counsel.

(2) Any person whose name is mentioned during adjudicatory proceedings of the commission and who may be adversely affected thereby may appear personally before the commission on said person's own behalf, with or without attorney, to give a statement in opposition to such adverse mention or file a written statement of such opposition for incorporation into the record of proceeding.

(3) All adjudicatory proceedings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(4) Within thirty (30) days after the end of an adjudicatory proceeding pursuant to the provisions of this section, the commission shall meet in executive session for the purpose of reviewing the evidence before it. Within thirty (30) days after completion of deliberations, the commission shall publish a written report of its findings and conclusions.

(5) The commission, upon a finding pursuant to an adjudicatory proceeding that there has been clear and convincing proof of a violation of this chapter, may:

(a) Issue an order requiring the violator to cease and desist the violation;

(b) Issue an order requiring the violator to file any report, statement, or other information as required by this chapter;

(c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any;

(d) In writing, recommend to the violator's appointing authority that the violator be removed or suspended from office or employment, and include a recommendation for length of suspension, to be approved by the appointing authority, if any; or

(e) Issue an order requiring the violator to pay a civil penalty of not more than two thousand dollars ($2,000) for each violation of this chapter.

(6) In addition to any other remedies provided by law, any violation of this chapter which has substantially influenced the action taken by any state agency in any particular matter shall be grounds for avoiding, rescinding, or canceling the action on such terms as the interests of the state and innocent third persons require.

(7) The commission shall refer to the Attorney General violations of Section 6 of this Act for prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation. The commission may represent itself through the general counsel in all subsequent proceedings.

(8) Any final action by the commission shall be subject to review in Circuit Court upon petition of any party in interest filed within thirty (30) days after the action for which review is sought. The court shall enter a judgment enforcing, modifying, or setting aside the order of the commission, or it may remand the proceeding to the commission for such further action as the court may direct.

SECTION 13. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

The commission shall perform the following additional duties:

(1) On its own initiative or upon request in writing, issue and publish advisory opinions on the requirements of this chapter for those who wish to use the opinion to guide their own conduct;

(2) Provide a continuing program of education, assistance, and information to public servants, including, but not limited to, publishing and making available to the persons subject to this chapter and the public explanatory information concerning this chapter, the duties imposed by it, and the means of enforcement;

(3) Promulgate administrative regulations in accordance with KRS Chapter 13A to implement this chapter;

(4) Prescribe forms for statements required by this chapter and furnish the forms to persons required to file the statements. The forms shall be adopted as administrative regulations or adopted by reference in an administrative regulation;

(5) Prepare and publish a manual of guidelines setting forth uniform methods of reporting for use by persons required to file under this chapter;

(6) Accept and file any information voluntarily supplied that exceeds the requirements of this chapter;

(7) Preserve the disclosure statements filed with it for four (4) years from the date of receipt;

(8) Make statements and reports filed with the commission available for public inspection and copying pursuant to KRS 61.870 to KRS 61.884 (Kentucky Open Records Law);

(9) Compile and maintain a current index of all statements filed with the commission to facilitate public access to the reports and statements;

(10) Prepare and publish reports as it may deem appropriate;

(11) Audit statements and reports filed with the commission;

(12) Make recommendations for legislation relating to governmental ethics and other matters included in this chapter as the commission deems desirable; and

(13) Prepare a biennial written report, no later than December 1 of each odd-numbered year, to the Legislative Research Commission, the Governor, and the public on the activities of the commission in the preceding two (2) fiscal years. The report shall contain the names and duties of each individual employed by the commission and a summary of commission determinations and advisory opinions. The commission shall prevent disclosure of the identity of a person involved in decisions or advisory opinions. The report may contain other information on matters within the commission's jurisdiction and recommendations for legislation as the commission deems desirable.

SECTION 14. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates Section 6 of this Act shall be guilty of a Class D felony. In addition:

(a) The judgment of conviction for a violation of Section 6(2) shall recite that the offender is disqualified to hold office thereafter; and

(b) Any person who violates subsections (1) to (7) of Section 6 of this Act shall be judged to have forfeited any employment, or constitutional or statutory office he holds, provisions of KRS Chapter 18A to the contrary notwithstanding.

(2) Any officer and public servant required to file a statement of financial disclosure pursuant to Section 7 of this Act who does not file the statement by a date specified in that section shall have his salary withheld from the first day of noncompliance until he shall have completed the action required by law. The amount withheld shall be deducted from his overall pay and allowances and shall not be recoverable pursuant to Section 235 of the Constitution of Kentucky.

(3) Any person who maliciously files with the commission a false charge of misconduct on the part of any public servant or other person shall be fined not to exceed five thousand dollars ($5,000), or imprisoned in a county jail for a term not to exceed one (1) year, or both.

(4) Prosecution for violation of any provision of Section 6 of this Act shall not be commenced after two (2) years have elapsed from the date of the violation.

Section 15. The following KRS sections are repealed:

61.782 Financial Disclosure Review Commission created.

61.784 Membership — Appointment — Terms — Compensation — Executive director.

61.786 Officers subject to review.

61.788 Submission of information by officers — Forms — Questioning by commission — Meetings of commission.

61.790 Information held confidential.

Section 16. For the purposes of carrying out the provisions of this Act, the 1992-94 biennial budget appropriation from the general fund to the Financial Disclosure Review Commission for fiscal year 1992-93 and fiscal year 1993-94 shall be transferred to the Executive Branch Ethics Commission. If the funds appropriated for fiscal years 1992-93 are not completely expended, they shall be carried forward to fiscal year 1993-94.

The Committee Amendment No. 1 to **SB 63** is as follows:

Amend printed copy of **SB 63/GA** on page 7, line 24, after the word "***contract***" by inserting a comma and deleting the word "***or***"; and

On page 7, line 24, after the word "***purchase***" by inserting "***, or good faith negotiation***"; and

On page 10, line 8, after the word "***filer***" by inserting the words "***and spouse***"; and

On page 10, line 9, after the word "***filer***" by inserting the words "***or his spouse***"; and

On page 10, line 12, after the word "***filer***" by inserting "***, his spouse or dependent children***"; and

On page 10, line 15, after the word "***filer***" by inserting the words "***or his spouse***"; and

On page 10, line 18, after the word "***filer***" by inserting the words "***or his spouse***"; and

On page 10, line 20, after the word "***filer***" by inserting the words "***or his spouse***"; and

On page 10, line 26, after the word "***filer***" by inserting the words "***, his spouse or dependent children***"; and

On page 11, line 3, after the word "***filer,***" by inserting the words "***his spouse or dependent children,***".

The Committee Amendment No. 2 to **SB 63** is as follows:

Amend printed copy of **SB 63/GA** on page 5, by inserting the following between lines 1 and 2:

"***(11) "Lobbyist" means any person employed as a legislative agent or legislative counsel to promote, oppose, or act with reference to any legislation which affects, or may affect, private pecuniary interests, as distinct from those of the whole people.***

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts with reference to legislative action."; and

On page 8, line 18, by deleting "***register***" and inserting in lieu thereof "***act***"; and

On page 18, line 7, by deleting "***avoiding***" and inserting in lieu thereof "***voiding***".

The Committee Amendment No. 3 to **SB 63** is as follows:

Amend printed copy of **SB 63/GA** on page 22, after line 21, by inserting the following:

"Section 17. Whereas the democratic process requires that the ultimate source of power - the people - delegate authority to those who would offer themselves for public service by seeking elective office; and

Whereas because these officials are vested with this special responsibility, it is imperative that they conduct themselves in a manner worthy of the public trust; and

Whereas the General Assembly has created the Board of Ethics of the General Assembly to act as an advisory, educational, and investigatory body and has enacted the Legislative Code of Ethics to set standards of ethical behavior for its members; and

Whereas the members of the Judicial Branch are subject to the provisions of the Judicial Canons of Ethics and oversight by the Judicial Retirement and Removal Commission; and

Whereas the Executive Branch is proposing a code of ethics which would provide a systematic, cohesive, comprehensive code to guide officials and employees of the Executive Branch; and

Whereas no code of ethics currently exists for officials and employees of local government;

(1) The General Assembly directs as follows:

(a) That a Task Force on Governmental Ethics be established to make a comprehensive study of the ethics needs of state and local government and the feasibility of creating a State and Local Government Ethics Commission to be responsible for the education on and enforcement of ethical and conflict of interest standards for state and local government.

(b) That the Task Force be composed of fifteen (15) members, eight appointed by the Speaker of the House of Representatives and seven (7) appointed by the President Pro Tempore of the Senate, proportionate to the membership of the majority and minority parties in the respective chambers, with two (2) co-chairs, one each named from the House of Representatives and Senate.

(c) That the Task Force meet regularly during the 1992-93 Interim and report its findings and recommendations to the Legislative Research Commission no later than October 1, 1993.

(2) Staff services to be utilized in completing this study are estimated to cost twenty thousand dollars ($20,000)."

The Committee Title Amendment to **SB 63** is as follows:

Amend printed copy of **SB 63** on page 1, by amending the title to read: "AN ACT relating to the ethics of officers and public servants."

The Committee on Business Organizations and Professions reported **SB 29**, with Committee Substitute attached thereto, **SB 152**, Committee Amendment and Title Amendment attached thereto, **SB 199**, **SB 319**, **SB 321**, with Committee Substitute and Title Amendment attached thereto, **SB 337**, **SB 350**, **SB 373** and **SB 422** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 29, AN ACT relating to alcoholic beverages and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in KRS 244.087 and 244.090, no person under twenty-one (21) years of age shall enter or remain on any premises in which alcoholic beverages are sold by the drink or consumed on the premises, unless the establishment is a restaurant, grocery store, drug store, hotel, motel, private club, park, fair, church, school, athletic complex, or public exhibition where live sports, athletic events, bona-fide plays, or concerts are scheduled. No person under twenty-one (21) years of age shall enter or remain in the bar area or barroom of any establishment exempted under this subsection.

(2) Except as provided in KRS 244.087 and 244.090; no licensee, his agent, servant, or employee shall permit any person under twenty-one (21) years of age to enter or remain on any premises in which alcoholic beverages are sold by the drink or consumed on the premises, unless the establishment is a restaurant, grocery store, drug store, hotel, motel, private club, park, fair, church, school, athletic complex or public exhibition where live sports, athletic events, bona-fide plays, or concerts are scheduled. No person under twenty-one (21) years of age shall be permitted to enter or remain in the bar area or barroom of any establishment exempted under this subsection.

(3) For the purpose of this section, "restaurant" means a business which receives at least thirty-five percent (35%) of its gross food and alcoholic beverage sales receipts from the sale of food. Premises that qualify for the restaurant exemption shall only be classified for exemption during those times of the day that meals are served to customers.

Section 2. KRS 244.083 is amended to read as follows:

(1) Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall ***read*** [~~show~~], in thirty (30) point or larger type, substantially as follows:

"Persons under the age of twenty-one (21) are subject to a fine ***of*** up to one hundred dollars ($100) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.

2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.

3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

(2) Unless the establishment is a restaurant, grocery store, drug store, hotel, motel, private club, park, fair, church, school, athletic complex, or public exhibition where live sports, athletic events, bona fide plays, or concerts are scheduled, every retail licensee that sells alcoholic beverages by the drink or for consumption on the premises shall display at all times, in a prominent place, a printed card at least eight (8) inches by eleven (11) inches in size which shall read, in thirty (30) point or larger type, substantially as follows:

"Persons under the age of twenty-one (21) shall be subject to a fine of up to one hundred dollars ($100) if they enter or remain on these premises."

Section 3. KRS 244.090 is amended to read as follows:

(1) No person holding any license under KRS 243.020 to 243.670 shall knowingly employ in connection with his business, in any capacity [~~whatsoever~~], any person who:

(a) Has been twice convicted of any felony, misdemeanor, or offense or one (1) [~~such~~] felony and one (1) [~~such~~] misdemeanor directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years;

(b) Is under ***twenty-one (21)*** [~~the age of twenty (20)~~] years ***of age***, except in a bottling house or room of a licensed distiller, vintner, [~~or~~] brewer, or rectifier, ***or in a position which is not directly involved with the sale, service, delivery, manufacture, stocking, or transportation of alcoholic beverages,*** [~~and except in an office of a wholesaler or manufacturer maintained in a building separate from the warehouses or factory~~] or as provided in KRS 244.087. ***Persons twenty (20) years of age on or before the effective date of this Act may continue their current employment***;

(c) Is not a citizen of the United States; or

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(2) Violation of this section shall subject both employer and employee to penalties provided in this chapter, and shall be cause for revocation of license.

Section 4. KRS 244.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association, or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) Any person who violates KRS 244.170 shall, upon the first conviction, be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and may in addition be imprisoned in the county jail for not more than six (6) months. Upon a second conviction he shall be imprisoned in the penitentiary for not less than one (1) year[,] nor more than five (5) years. Upon the third and each subsequent conviction, he shall be imprisoned in the penitentiary for not less than five (5) nor more than ten (10) years. Upon the second or any subsequent conviction of a corporation for a violation of KRS 244.170, it shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

(3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(4) Any person, firm or corporation violating any provision of KRS 244.083, [~~and~~] 244.085, ***or Section 1 of this Act*** shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) and each violation shall constitute a separate offense.

(5) Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and for each subsequent offense shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000).

Section 5. Whereas the health and safety of minors throughout the Commonwealth will be in jeopardy by allowing such individuals on premises in which alcoholic beverages are sold by the drink or consumed on the premises, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **SB 29** is as follows:

SB 29, AN ACT relating to alcoholic beverages and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in KRS 244.087 and 244.090, no person under twenty-one (21) years of age shall enter or remain on any premises in which alcoholic beverages are sold by the drink or consumed on the premises, unless the establishment is a restaurant, grocery store, drug store, hotel, motel, private club, park, fair, church, school, athletic complex, or public exhibition where live sports, athletic events, bona-fide plays, or concerts are scheduled. No person under twenty-one (21) years of age shall enter or remain in the bar area or barroom of any establishment exempted under this subsection.

(2) Except as provided in KRS 244.087 and 244.090, no licensee, his agent, servant, or employee shall permit any person under twenty-one (21) years of age to enter or remain on any premises in which alcoholic beverages are sold by the drink or consumed on the premises, unless the establishment is a restaurant, grocery store, drug store, hotel, motel, private club, park, fair, church, school, athletic complex or public exhibition where live sports, athletic events, bona-fide plays, or concerts are scheduled. No person under

twenty-one (21) years of age shall be permitted to enter or remain in the bar area or barroom of any establishment exempted under this subsection.

(3) For the purpose of this section, "restaurant" means a business which receives at least twenty-five percent (25%) of its gross food and alcoholic beverage sales receipts from the sale of food. Premises that qualify for the restaurant exemption shall only be classified for exemption during those times of the day that meals are served to customers.

Section 2. KRS 244.083 is amended to read as follows:

(1) Every retail licensee shall display at all times in a prominent place a printed card at least eight (8) inches by eleven (11) inches in size which shall ***read*** [~~show~~], in thirty (30) point or larger type, substantially as follows:

"Persons under the age of twenty-one (21) are subject to a fine ***of*** up to one hundred dollars ($100) if they:

1. Enter licensed premises to buy, or have served to them, alcoholic beverages.

2. Possess, purchase or attempt to purchase, or get another to purchase alcoholic beverages.

3. Misrepresent their age for the purpose of purchasing or obtaining alcoholic beverages."

(2) Unless the establishment is a restaurant, grocery store, drug store, hotel, motel, private club, park, fair, church, school, athletic complex, or public exhibition where live sports, athletic events, bona fide plays, or concerts are scheduled, every retail licensee that sells alcoholic beverages by the drink or for consumption on the premises shall display at all times, in a prominent place, a printed card at least eight (8) inches by eleven (11) inches in size which shall read, in thirty (30) point or larger type, substantially as follows:

"Persons under the age of twenty-one (21) shall be subject to a fine of up to one hundred dollars ($100) if they enter or remain on these premises."

Section 3. KRS 244.090 is amended to read as follows:

(1) No person holding any license under KRS 243.020 to 243.670 shall knowingly employ in connection with his business, in any capacity [~~whatsoever~~], any person who:

(a) Has been twice convicted of any felony, misdemeanor, or offense or one (1) [~~such~~] felony and one (1) [~~such~~] misdemeanor directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years;

(b) Is under ***twenty-one (21)*** [~~the age of twenty (20)~~] years ***of age***, except in a bottling house or room of a licensed distiller, vintner, [~~or~~] brewer, or rectifier, ***or in a position which is not directly involved with the sale, service, delivery, manufacture, stocking, or transportation of alcoholic beverages,*** [~~and except in an office of a wholesaler or manufacturer maintained in a building separate from the warehouses or factory~~] or as provided in KRS 244.087. ***Persons twenty (20) years of age on or before the effective date of this Act may continue their current employment***;

(c) Is not a citizen of the United States; or

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale, or transportation of alcoholic beverages revoked for cause.

(2) Violation of this section shall subject both employer and employee to penalties provided in this chapter, and shall be cause for revocation of license.

Section 4. KRS 244.990 is amended to read as follows:

(1) Any person who, by himself or acting through another, directly or indirectly, violates any of the provisions of this chapter for which no other penalty is provided, except KRS 244.380 to 244.470, shall, for the first offense, be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned in the county jail or workhouse for not more than six (6) months, or both; and for the second and each subsequent violation, he shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or imprisoned in the county jail or workhouse for not more than six (6) months, or both. The penalties provided for in this subsection shall be in addition to the revocation of the offender's license. If the offender is a corporation, joint stock company, association, or fiduciary, the principal officer or officers responsible for the violation may be imprisoned.

(2) Any person who violates KRS 244.170 shall, upon the first conviction, be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and may in addition be imprisoned in the county jail for not more than six (6) months. Upon a second conviction he shall be imprisoned in the penitentiary for not less than one (1) year[~~,~~] nor more than five (5) years. Upon the third and each subsequent conviction, he shall be imprisoned in the penitentiary for not less than five (5) nor more than ten (10) years. Upon the second or any subsequent conviction of a corporation for a violation of KRS 244.170, it shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000).

(3) Any person who violates any of the provisions of KRS 244.480 to 244.600 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(4) Any person, firm or corporation violating any provision of KRS 244.083, [~~and~~] 244.085, ***or Section 1 of this Act*** shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100) and each violation shall constitute a separate offense.

(5) Any person who violates the provisions of subsection (5) of KRS 244.085 shall, for the first offense, be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500) and for each subsequent offense shall be fined not less than two hundred dollars ($200) nor more than two thousand dollars ($2,000).

Section 5. Whereas the health and safety of minors throughout the Commonwealth will be in jeopardy by allowing such individuals on premises in which alcoholic beverages are sold by the drink or consumed on the premises, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SB 152, AN ACT relating to mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 352.470 is amended to read as follows:

(1) The correctness of each map provided for by KRS 352.450 or 352.460 shall be certified only by a professional [~~civil or mining~~] engineer ***or land surveyor*** registered in Kentucky. KRS ***322.290*** [~~322.340~~] requires ***registrants to practice only in areas of competence*** [~~that plats, etc. be stamped with their seal~~]. The certification shall read as follows:

"I, the undersigned, hereby certify that this map is correct, shows to the best of my knowledge and belief all the information required by the mining laws of this state, and covers the period ending ______________,
________ Certifying Agent

"Acknowledged before me, a ______________________, this ________ day of __________."

____

______________________________ SEAL

(2) The commissioner may reject any map as incomplete if its accuracy is not so attested.

The Committee Amendment No. 1 to **SB 152** is as follows:

Amend printed copy of **SB 152/GA** on page 1, line 18 after the period, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 1 IS CREATED TO READ AS FOLLOWS:

It is the intent of the General Assembly of the Commonwealth of Kentucky that Section 3 of this Act shall not eliminate the existing methods of describing points of the surface of the earth, as in metes and bounds or, in western Kentucky, the public land system, but rather to enhance these existing methods and establish a conformity for retracement purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 1 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Coordinate System of 1983, which is hereby adopted, means a system of plane coordinates which have been established by the National Ocean Service/National Geodetic Survey for defining and stating the geographic positions or locations of points on the surface of the earth within the Commonwealth of Kentucky.

(2) For this system, the Commonwealth shall be divided into a north zone and a south zone. The north zone shall be a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 37 degrees, 58 minutes, and 38 degrees, 58 minutes along which parallels the scale shall be exact. The origin of coordinates shall be at the intersection of the meridian 84 degrees, 15 minutes west of Greenwich, and the parallel 37 degrees, 30 minutes north latitude. This origin shall be given the coordinates: N0, E500,000.000 meters. The south zone shall be a Lambert conformal conic projection of the North American Datum of 1983, having standard parallels at north latitudes 36 degrees, 44 minutes, and 37 degrees, 56 minutes along which parallels the scale shall be exact. The origin of coordinates shall be at the intersection of the meridian 85 degrees, 45 minutes west of Greenwich, and the parallel 36 degrees, 20 minutes north latitude. This origin shall be given the coordinates: N500,000.000, E500,000.000 meters. The southern edge of the following counties shall delineate the boundary between the north zone and the south zone: Bullitt, Spencer, Anderson, Woodford, Jessamine, Fayette, Clark, Montgomery, Menifee, Morgan, and Lawrence.

(3) One U. S. survey foot equals (1200)/(3937) meter. For conversion of meters to U. S. survey feet, multiply the meters by 3.28083333333 to twelve (12) significant figures. When converting from meters to feet, the conversion factor defined by the U. S. survey foot shall be used.

(4) The plane coordinate values for a point on the earth's surface, used to express the geographic position or location of the point in the appropriate zone of this system, shall consist of two (2) distances expressed in U. S. survey feet and decimals of a foot when using the Kentucky Coordinate System of 1983. For the Kentucky Coordinate System of 1983, one (1) of the distances, to be known as the "northing" or "N", shall give the position in a north/south direction. The other, to be known as the "easting" or "E" shall give the position in an east/west direction. These coordinates shall be made to depend upon and conform to plane rectangular coordinates values for the monumented points of the North American National Geodetic Horizontal Network as published by the National Ocean Service/National Geodetic Survey, and whose plane coordinates have been computed on the systems established by the National Ocean Service/

National Geodetic Survey. Any such station may be used for establishing a survey connection to the Kentucky Coordinate System of 1983.

(5) For purposes of describing the location of any survey station or land boundary corner in the Commonwealth of Kentucky, it shall be considered a complete, legal, and satisfactory description of the location to give the position of the survey station or land boundary corner on the Kentucky Coordinate System of 1983.

(6) Nothing contained in this section shall require a purchaser or mortgagee of real property to rely wholly on a land description any part of which depends exclusively upon the Kentucky Coordinate System of 1983.

(7) When any tract of land to be defined by a single description extends from one (1) into the other of the two (2) zones, the position of all points on its boundaries may be referred to either of the two (2) zones. The zone which is used shall be named in the description.

(8) No coordinates based on the Kentucky Coordinate System of 1983, purporting to define the position of a point on a land boundary, shall be presented to be recorded in any public land records or deed records unless the point has been tied to an existing monumented horizontal control station established in conformity with the standards of accuracy and specifications for first or second order geodetic surveying as prepared and published by the Federal Geodetic Control Committee of the United States Department of Commerce. The survey used to tie a point into these monumented control stations shall conform to the standards and specifications of a minimum of third order accuracies as set forth by the Federal Geodetic Control Committee. Standards and specifications of the Federal Geodetic Control Committee, or its successor, in force on the date of the survey shall apply. Publishing existing control stations, or the acceptance with intent to publish the newly established stations, by the National Ocean Service/National Geodetic Survey shall constitute evidence of adherence to the Federal Geodetic Control Committee specifications. These requirements may be modified by a duly authorized state agency or local agency to meet local conditions.

(9) The use of the terms "KENTUCKY COORDINATE SYSTEM OF 1983 NORTH ZONE" or "KENTUCKY COORDINATE SYSTEM OF 1983 SOUTH ZONE" on any map, report of survey, or other document shall be limited to coordinates based on the Kentucky Coordinate System as defined in this section.

(10) If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are severable."

The Committee Title Amendment to **SB 152** is as follows:

Amend printed copy of **SB 152** by amending the TITLE to read as follows: "AN ACT relating to land surveying."

SB 199, AN ACT relating to security officers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The following definitions apply in Sections 1 to 17 of this Act:

(1) "Security Officer" means any natural person who performs security or patrol services, but does not include any individual employed in active military service, or a law enforcement officer employed by a governmental entity.

(2) "Security or patrol services" means:

(a) Prevention of intrusion, entry, theft, vandalism, abuse, fire, or trespass on public or private property;

(b) Prevention, observation, or detection of any unauthorized activity on public or private property;

(c) Control, regulation, or direction of the flow or movements of the public, whether by vehicle or otherwise, only to the extent and for the time directly and specifically required to assure the protection of property; and

(d) Protection of individuals from bodily harm.

(3) "Security services contractor" means any private entity, whether an individual, firm, association, company, partnership, or corporation, which contracts to provide security and patrol services.

(4) "Law enforcement officer" means any individual who derives plenary law enforcement powers, such as the power of arrest, from, and is an employee of, a federal, state, or local government agency or instrumentality, and shall include special law enforcement officers commissioned by the cabinet.

(5) "Registration card" means a pocket identification card issued by the secretary evidencing that the holder has met the qualifications required by Sections 1 to 17 of this Act to perform security or patrol services in this state.

(6) "Council" means the Kentucky law enforcement council.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 17 of this Act do not apply to:

(1) A consumer reporting agency, as defined by the Federal Fair Credit Reporting Act;

(2) An attorney at law, or his agency, performing duties relating to the attorney's practice of law;

(3) An insurance company, agent, broker, or adjuster performing investigative duties in connection with insurance business transacted;

(4) A holder of a purchase money security interest, or his agent, repossessing the personal property in which the interest is held;

(5) A private business employee conducting investigations relating to the internal affairs of the business; or

(6) Employees of a company who are employed expressly to perform security services for that company and not for hire.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 17 of this Act shall be administered by the secretary, or by any agency within the cabinet designated by the secretary and acting under his authority. The secretary shall make, promulgate, and enforce the administrative regulations reasonable and necessary to carry out the provisions of Sections 1 to 17 of this Act. The secretary may appoint employees and delegate duties to them, as he deems appropriate.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in security or patrol services as regulated by Sections 1 to 17 of this Act without having first obtained a license from the secretary to act as a security officer.

(2) No person or entity shall act as a security services contractor without having first obtained a license from the secretary.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

Each applicant for a license as a security officer shall:

(1) Be at least eighteen (18) years of age;

(2) Be a citizen of the United States;

(3) Not have been declared by any court of competent jurisdiction mentally disabled by reason of mental retardation or disease unless a court of competent jurisdiction has since declared him restored;

(4) Not have been dishonorably discharged from the armed forces of the United States;

(5) Not have been convicted in any jurisdiction of any felony or of any crime involving moral turpitude for which he has not received a full pardon;

(6) Not have been convicted of any other offense or offenses within five (5) years prior to application;

(7) Not be suffering from habitual drunkenness or narcotics addiction or dependence; and

(8) Have completed the training required in Section 6 of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

Prior to issuance of a security officer license an applicant shall provide evidence satisfactory to the secretary that he meets the following requirements:

(1) He is a graduate of an accredited high school or of an equivalent technical or vocational training or education program, as determined by the secretary, or holds a G.E.D. certificate; and

(2) He has successfully completed not fewer than fifteen (15) hours of training in a program approved by the council and dealing comprehensively with the subjects of: arrest by persons other than peace officers; detention of persons for purposes of investigation of theft; control, regulation or direction of the flow or movements of the public, whether by vehicle or otherwise; and rudimentary first-aid.

(3) An applicant shall be exempt from subsection (2) if he:

(a) Has been employed as a full-time law enforcement officer for a period of not less than one (1) year within the past five (5) years by the Department of State Police or by a local unit of government which has met the requirements of KRS 15.440; or

(b) Has been employed in a full-time capacity as a military policeman engaged in law enforcement for the United States Armed Forces for a period of not less than one (1) year within the past five (5) years; and

(c) Has never been discharged for cause from employment as a law enforcement officer.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

Each individual applicant for a license as a security services contractor, or if the applicant is a partnership, each partner, or, if the applicant is a corporation, a principal corporate officer, shall:

(1) Be at least twenty-one (21) years of age;

(2) Be a citizen of the United States;

(3) Not have been declared by any court of competent jurisdiction mentally disabled by reason of mental retardation or disease unless a court of competent jurisdiction has since declared him restored;

(4) Not be suffering from habitual drunkenness or narcotics addiction or dependence; and

(5) (a) Possess at least three (3) years of experience as a manager, supervisor, or administrator of a security services contractor; or

(b) Possess at least three (3) years of experience satisfactory to the secretary with any federal, United States military, state, county, or municipal law enforcement agency; or

(c) Pass an examination to be administered at least annually by the secretary, designed to measure knowledge and competence in the contract security company business.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) A security services contractor license, or renewal thereof, shall be valid for a period of two (2) years from the date of issuance.

(2) The fee for a license, or timely renewal thereof, shall be two hundred fifty dollars ($250). An additional penalty fee of twenty-five dollars ($25) shall be assessed on any renewal application postmarked after the expiration date of the license.

(3) No renewal fee shall be accepted more than thirty (30) days after the expiration of the license.

(4) A renewal application shall be accompanied by a notarized statement sworn to by the applicant as to the names of licensed security officers employed by the applicant and the property applicant has contracted to provide security or patrol services for.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) A security officer license, or renewal thereof, shall be valid for a period of two (2) years from the date of issuance.

(2) The fee for a license, or timely renewal thereof, shall be twenty-five dollars ($25). An additional penalty fee of five dollars ($5) shall be assessed on any renewal application postmarked after the expiration date of the license.

(3) No renewal fee shall be accepted more than thirty (30) days after the expiration of the license.

(4) A renewal application shall be accompanied by a notarized statement sworn to by the applicant detailing the continuing education or training the applicant has received in the field of security or patrol services since the last application.

(5) To be eligible for renewal, the applicant shall provide documentation that he has, since the last renewal date, successfully completed four (4) hours of continuing education or training in the topics set forth in Section 6 of this Act.

(6) A firearms endorsement shall be renewed at the time of license renewal if the applicant provides documentation that he has, in addition to the training required in subsection (5) of this section, successfully completed at least eight (8) hours of marksmanship training, administered by the council certified instructor, and successfully completed written, oral, and practical examinations in marksmanship and the topics set forth in Section 12 of this Act as approved by the council.

(7) An additional fee of seventy-five dollars ($75) for a firearms endorsement, or a renewal thereof, shall be assessed with the license fee.

SECTION 10. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) All licensees shall retain a certificate of insurance evidencing general liability coverage for the negligent act or acts of the principal insured or his agents operating in the course and scope of employment for bodily injury, personal injury, and property damage, with endorsements for personal injury, including false arrest, libel, slander and invasion of privacy, in the minimum amount of three hundred thousand dollars ($300,000) for bodily or personal injury and one hundred thousand dollars ($100,000) for property damage.

(2) A security officer employed by a security services contractor who provides security or patrol services as an employee of the contractor is exempt from the requirement of subsection (1), if the officer is covered by the employer's policy.

(3) Certificates of insurance required by this section shall provide that the insurance shall not be modified or cancelled without thirty (30) days prior notice to the secretary.

(4) Certificates of insurance required by this section shall be available for inspection by the secretary or his representative.

SECTION 11. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The powers and duties of security officers shall be confined to the premises of the property to be protected and public highways transversing the property.

SECTION 12. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) No security officer shall carry a firearm while in the performance of his duties without having first obtained a firearms endorsement to his license from the secretary.

(2) Prior to issuance of a firearms endorsement to a security officer license, an applicant shall provide evidence satisfactory to the secretary that he meets the following requirements:

(a) The requirements set forth in Sections 5, 6, and 9 of this Act;

(b) He has successfully completed not fewer than eighty (80) hours of training in a program approved by the council and dealing comprehensively with the subjects of the law of arrest, search and seizure, the use of deadly force, and first aid; and

(c) He demonstrates, in written and practical examinations approved by the council, knowledge of a proficiency in firearms safety, range firing, and the moral and legal aspects of firearm use.

SECTION 13. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) No security officer shall wear any uniform, or any part thereof, of any law enforcement officer, nor shall he in any way impersonate a law enforcement officer or represent himself to any person as being a law enforcement officer.

(2) A security officer may wear such badges and insignia as will plainly indicate to the public that he is a security officer, but he shall not wear any military or police-style uniform, unless such uniform has affixed over the left breast pocket on the outermost garment, other than rainwear or other foul-weather clothing, and on any cap a badge or insignia distinct in design from that utilized by any law enforcement agency in this state, and affixed over the right breast pocket a name plate or tape with the name of the security officer on it.

SECTION 14. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) The secretary may promulgate a schedule of fees to be charged for any examinations authorized by Sections 1 to 17 of this Act.

(2) The Department of Criminal Justice Training may provide any training required by Sections 1 to 17 of this Act. The recipients of training shall pay the cabinet for tuition and other costs associated with the training.

SECTION 15. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

Upon receipt of an application for a license as authorized by Sections 1 to 17 of this Act, the secretary may conduct any investigation as he deems necessary to determine the truth of the contents of the application and the qualifications of the applicant.

SECTION 16. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The secretary shall revoke or suspend any license authorized by Sections 1 to 17 of this Act whenever he shall determine:

(1) That the license holder does not meet, or no longer meets, the requirements and conditions for the license; or

(2) That the license holder has knowingly falsified an application or portion thereof, or has made any knowingly false or misleading statement of a material fact to the secretary or any of his delegates, agents or officers; or

(3) That the license holder has violated any provision of Sections 1 to 17 of this Act or any regulation or order promulgated pursuant thereto; or

(4) That the license holder has violated any law of the Commonwealth, the United States, any one of the several states, or any jurisdiction, the violation of which the secretary determines to bear a reasonable relationship to eligibility for the license; or

(5) As required by KRS Chapter 335B.

SECTION 17. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

No security officer licensed pursuant to Sections 1 to 17 of this Act shall have the power of arrest other than that of a citizen, as provided by KRS 431.005, neither shall he have the authority to carry a concealed deadly weapon, nor shall he have the authority to operate an emergency vehicle, or act as a law enforcement officer by virtue of such license.

Section 18. KRS 15.310 is amended to read as follows:

As used in KRS 15.315 to 15.510, 15.990 and 15.992, unless the context otherwise requires:

(1) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990 and 15.992;

(2) "Department" means the Department of Criminal Justice Training of the Justice Cabinet;

(3) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement[~~, and special local peace officers licensed pursuant to KRS 61.360~~]; and

(4) "Secretary" means the secretary of the Justice Cabinet.

Section 19. KRS 61.300 is amended to read as follows:

No person shall serve as a deputy sheriff, deputy constable, patrol or other nonelective peace officer, or deputy peace officer, unless:

(1) He is a citizen of the United States and is twenty-one (21) years of age or over;

(2) If a deputy constable [~~or special local peace officer appointed pursuant to KRS 61.360, he~~] has resided in the county wherein he is appointed to serve for a period of at least two (2) years; and if a deputy sheriff, he agrees to reside in the county wherein he is appointed within ninety (90) days of his appointment, and to continue his residence therein during the term of his appointment. Any deputy sheriff appointed pursuant to this section who has not been a resident of the county for a period of at least two (2) years shall not be an active participant in any labor dispute and shall immediately forfeit his position if he violates this provision;

(3) He has never been convicted of a crime involving moral turpitude;

(4) He has not within a period of two (2) years hired himself out, performed any service, or received any compensation from any private source for acting, as a privately paid detective, policeman, guard, peace officer or otherwise as an active participant in any labor dispute, or conducted the business of a private detective agency or of any agency supplying private detectives, private policemen, or private guards, or advertised or solicited any such business in connection with any labor dispute; and

(5) He has complied with the provisions of KRS 15.333.

Section 20. KRS 61.310 is amended to read as follows:

(1) "Peace officer," as used in this section, means any sheriff, deputy sheriff, constable, deputy constable, patrol or any other peace officer or deputy peace officer except those appointed pursuant to KRS [~~61.360 or~~] 277.270 and those employed by a board of education.

(2) No peace officer shall receive any compensation or remuneration, directly or indirectly, from any person for the performance of any service or duty except that he may be compensated for employment authorized by subsection (4) of this section. Any peace officer who violates this subsection may be removed from office, under the provisions of KRS 63.170.

(3) Peace officers shall receive for the performance of their services and duties only such compensation or remuneration as is regularly provided and paid out of the public funds to the amount and in the manner provided by law except that they may be compensated from private funds for employment authorized by subsection (4) of this section. Donations made by persons to any governmental unit or officer thereof do not constitute public funds within the meaning of this subsection.

(4) A peace officer may, while in office, and during hours other than regular or scheduled duty hours, act in any private employment as guard or watchman or in any other similar or private employment. However, he may not participate directly or indirectly, in any labor dispute during his off-duty hours. Any peace officer who violates this subsection may be removed from office, under the provisions of KRS 63.170.

(5) No principal peace officer shall appoint or continue the appointment of any deputy contrary to the provisions of this section. When it appears by the affidavit of two (2) citizens, taxpayers of the county, filed with any principal peace officer, that there is reasonable cause to believe that any of his deputies are receiving compensation from private sources contrary to the provisions of this section, the peace officer shall forthwith investigate the charges contained in the affidavit, and if he finds the charges are true he shall forthwith remove any such deputy from office. Failure to do so shall constitute neglect of duty on the part of the principal peace officer, and he may be removed from office under the provisions of KRS 63.170.

(6) In addition to being subject to removal from office, any peace officer who violates any of the provisions of this section shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000), or confined in jail for not more than one (1) year, or both.

(7) Except as provided in KRS [~~61.360 and~~] 277.280, any person who directly or indirectly pays or contributes or causes to be paid or contributed any money or other thing of value to any peace officer or to any governmental unit or officer thereof, either as a gift or donation for the performance of any public duty shall be fined not less than five hundred ($500) nor more than five thousand dollars ($5,000).

Section 21. KRS 61.906 is amended to read as follows:

In order to qualify for a commission as a special law enforcement officer under KRS 61.900 to 61.930, an individual must present satisfactory evidence of compliance with the following conditions and requirements:

(1) No person shall be eligible for a commission who:

(a) Has been dishonorably discharged from the Armed Forces of the United States; or

(b) Has been convicted in any jurisdiction of any felony or of any crime involving moral turpitude for which he has not received a full pardon;

(c) Has been convicted of any other offense or offenses more than five (5) times within the previous three (3) years;

(d) Has by any court of competent jurisdiction been declared mentally disabled by reason of mental retardation or disease and has not been restored; or

(e) Suffers from habitual drunkenness or from narcotics addiction or dependence, or from any physical defect or deficiency which the secretary determines to materially impair the applicant's ability to perform the duties of a special law enforcement officer.

(2) Every person to be eligible for a commission shall:

(a) Have reached his twenty-first birthday;

(b) Provide, on forms supplied by the secretary, such information pertaining to himself as may reasonably be requested thereon, including, but not limited to his: name; age; date of birth; current address and employment; prior addresses and employment for the past ten (10) years; aliases, if any; arrest and conviction record, if any; social security number; fingerprints; photographs; and general physical description. The accuracy of such information shall be attested by the applicant and his attestation shall be notarized by one authorized to administer oaths;

(c) Be of good moral character;

(d) Provide references from two (2) reputable residents of the Commonwealth who are not related to him and who have known him well for a period of not less than three (3) years, attesting to his good character;

(e) Pay the fees provided in KRS 61.908; and

(f) Provide evidence satisfactory to the secretary that he meets the following requirements:

1. Is a graduate of an accredited high school or of an equivalent technical or vocational training or education program satisfactory to the secretary; or holds a G.E.D. certificate; [~~provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of this subsection;~~]

2. Has successfully completed not fewer than eighty (80) hours of training in a program approved by the council and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; or has been employed as a full-time sworn public peace officer for a period of not less than one (1) year within the past five (5) years, and has never been discharged for cause from employment as a sworn public peace officer; or has been employed in a full-time capacity as a military policeman engaged in law enforcement for the United States Armed Forces for a period of not less than one (1) year within the past five (5) years; or has successfully completed a written, oral and practical examination approved by the council and dealing comprehensively with the subject matter of criminal law and the law of arrest, search and seizure; and

3. Demonstrates, in written and practical examinations approved by the council, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid. [~~Provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of these subsections.~~]

Section 22. KRS 61.990 is amended to read as follows:

(1) Any person who exercises any of the functions of a nonelective peace officer or deputy peace officer in violation of the provisions of KRS 61.300 shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned in the county jail for not more than six (6) months, or both.

(2) [~~Any person who violates any of the provisions of KRS 61.360 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) or be imprisoned not less than ten (10) days nor more than sixty (60) days, or both.~~

~~(3)~~] Any person who willfully violates the provisions of KRS 61.102(1) shall be guilty of a Class A misdemeanor.

(3)[~~(4)~~] A court, in rendering a judgment in an action filed under KRS 61.102 and 61.103, shall order, as it considers appropriate, reinstatement of the employee, the payment of back wages, full reinstatement of fringe benefits and seniority rights, exemplary or punitive damages, or any combination thereof. A court may also award the complainant all or a portion of the costs of litigation, including reasonable attorney fees and witness fees.

Section 23. This Act shall become effective July 1, 1993.

Section 24. The following KRS section is repealed:

61.360 Special local peace officers — Appointment — Fee — Qualifications — Removal — Duties — Not to impersonate public police officer.

SB 319, AN ACT relating to cemeteries and funeral homes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.940 is amended to read as follows:

(1) Every person, firm, partnership, association or corporation shall obtain an agent license from the Attorney General at least thirty (30) days prior to offering for sale any pre-need burial contract or accepting any moneys on pre-need burial contracts. ***An*** [~~Every person, firm, partnership, association or corporation in existence and unlicensed as of July 13, 1984, which accepts or holds payments made on pre-need burial contracts, except financial institutions as defined in KRS 367.932 to 367.974 and 367.991, shall apply for an agent license from the Attorney General within one hundred eighty (180) days thereafter. Licensees who hold a valid license issued by the department of financial institutions shall not be required to make an initial application with the Attorney General. Application for a license shall be in writing, signed by the applicant and duly verified on forms furnished by the Attorney General. Each~~] application ***for license*** shall contain at least the following:

The full name and address (both residence and place of business) of the applicant, and every member, officer, and director thereof if the applicant is a firm, partnership, association or corporation. Any license issued pursuant to the application shall be valid only at the address stated in the application for the applicant or at a new address approved by the Attorney General.

(2) Upon receipt of the application and payment of a license fee of fifty dollars ($50) the Attorney General shall issue a license unless he determines that the applicant has made false statements or representations in the application, or is insolvent, or has conducted, or is about to conduct his business in a fraudulent manner, or is not duly authorized to transact business in this state. [~~Licensees who hold a valid license issued by the department of financial institutions shall not be required to pay a license fee to the Attorney General.~~]

(3) Any person selling a pre-need funeral service contract shall collect from each purchaser a service charge of five dollars ($5) made payable to the office of the Attorney General, and all of which fees so collected shall be remitted by the person collecting same to the Attorney General at least once each month, and such funds shall be used by the Attorney General in administering KRS 367.932 to 367.974 and 367.991.

(4) Every licensee shall file an annual report on a form provided by the Attorney General containing information as the Attorney General may require, but at least the following: an itemized list of all pre-need burial contracts sold within the last twelve (12) months, the moneys collected on said contracts, the total amount deposited in the pre-need funeral trust fund account and the location and account numbers of said

trust funds. ***A ten dollar ($10) fee shall be paid to the office of the Attorney General by each licensee filing an annual report.***

(5) Every such report shall be verified by the agent and shall be attested to by the accountant, auditor, or other person preparing the same.

(6) Such reports shall not be available to the general public and shall be used only for the lawful purpose of the Attorney General's office.

Section 2. KRS 367.942 is amended to read as follows:

(1) Every licensee shall keep and maintain adequate records including but not limited to the following:

(a) A cash receipts journal, listing moneys received in chronological order, dates, and amounts received, and identification of the payor or purchaser;

(b) A cash disbursement journal, containing the same information for moneys disbursed. If a separate bank account is kept exclusively for any such funds, the checkbook could be used as a cash disbursement journal;

(c) A "reconciliation," done at least once every twelve (12) months. The reconciliation shall indicate the beginning balance in the trust account, payments received during the period, interest earned during the period, disbursements on either cancellation or the death of the beneficiary, and the ending balance for the period. The ending balance for each period is determined as follows:

Beginning Balance

+ Payments received

+ Interest

— Disbursements

= Ending Balance

(d) Documentation files, supporting the reconciliation and containing the pre-need burial contract. Each file, consisting of a separate file for each contract, should include the name and address of the purchaser, the beneficiary, and the financial institution in which the trust funds were deposited. Passbooks, certificates, and other evidence of the account with the financial institution should be kept with the individual files, depending on the safety and security of the files.

(2) All sales, trust fund and accounting records of the agent licensee shall be readily available at the agent's principal place of business in this state at reasonable times for examination by an authorized representative of the Attorney General's office.

(3) The necessary expenses of any examination made pursuant to this section shall be paid by the licensee, but in no case shall the Attorney General or his authorized representatives be paid more than the actual expenses of such examination not to exceed the lesser of the following amounts: ***one hundred*** [~~seventy-five~~] dollars ***($100)*** [~~($75)~~] per day for each auditor or five dollars ($5) for each agent's sales contract examined. The agent may pay for this expense using interest moneys which have accrued on the agent's existing pre-need funeral trust fund accounts. Any withdrawal of interest for this purpose shall be taken as a pro rata share of all of the agent's existing pre-need funeral trust fund accounts. The Attorney General shall be advised

in writing by the agent when interest moneys is the source of payment and shall receive written certification from the financial institution or agent that the withdrawal was a pro rata share.

(4) This section shall apply to examinations of all pre-need funeral contracts whether entered into prior to or after July 13, 1984.

Section 3. KRS 367.946 is amended to read as follows:

(1) Every person engaged in the sale of any pre-need cemetery merchandise contract and cemetery company, hereinafter referred to as registrants, shall register with the Attorney General at least thirty (30) days prior to commencing to do business. [~~Every cemetery in existence as of July 13, 1984, shall register within one hundred eighty (180) days thereafter.~~] Such registration shall be on forms provided by the Attorney General and shall contain at least the following information.

(a) The name and location of the cemetery;

(b) The size and type;

(c) The names, addresses and other relative information concerning the owners, officers and directors;

(d) Identification, location and total amounts deposited in the perpetual care and merchandise trust funds;

(e) Types of services and merchandise sold and whether at need or pre-need.

(2) Every registrant shall, within sixty (60) days of any material change of any item required to be reported hereunder, notify the department of such change.

(3) Every registrant shall pay a filing fee of fifty dollars ($50) with its application. [~~Cemetery companies which are currently registered with the department of financial institutions and have paid all fees due shall not pay a filing fee and are not required to make initial application with the Attorney General.~~]

(4) Every registrant shall file an annual report on a form provided by the Attorney General containing information as the Attorney General may reasonably require, but at least the following:

(a) The total amount deposited in the perpetual care and maintenance trust fund, and a listing of the total number of grave spaces, underground crypts, mausoleums and niches sold within the last twelve (12) months and the gross selling price of each;

(b) The total amount deposited in the cemetery merchandise trust fund account, and a listing of the total number of the different cemetery merchandise sold within the last twelve (12) months and the retail selling price of each; and

(c) The total amount deposited in the preconstruction trust fund accounts, and a listing of the total number of mausoleum crypts, niches and underground crypts sold within the last twelve (12) months and the retail selling price of each and current balance.

(5) Every such report shall be verified by the registrant and shall be attested to by any other person preparing the same.

(6) Such reports shall not be available to the general public and shall be used only for the lawful purpose of the Attorney General's office.

(7) A ten dollar ($10) fee shall be paid to the office of the Attorney General by each registrant filing an annual report.

Section 4. KRS 367.948 is amended to read as follows:

Every registrant shall keep and maintain adequate records including but not limited to the following:

(1) A cash receipts journal, or its equivalent, listing moneys received in chronological order. The journal shall contain dates of all such moneys received, amounts received, and identification of the purchasers;

(2) A cash disbursement journal, or its equivalent, containing the same information as required by subsection (1) of this section for moneys disbursed; if a separate bank account is kept exclusively for any such funds, the checkbook could be used as a cash disbursement journal;

(3) A "reconciliation" done at least once every twelve (12) months. The reconciliation shall indicate the beginning balance in the trust account, payments received during the period, interest earned during the period, disbursements during the period, and the ending balance for the period. The ending balance for each period is determined as follows:

Beginning balance

+ Payments received

+ Interest

— Disbursements

= Ending Balance

(4) All contracts, sales, trust fund and accounting records of the registrant shall be readily available at the registrant's principal place of business in this state at reasonable times for examination by an authorized representative of the Attorney General's office;

(5) (a) The necessary expenses of any reasonable examination made pursuant to this section shall be paid by the registrant; but in no case shall the Attorney General or his authorized representatives be paid more than the actual expenses of such examination, not to exceed the lesser of the following amounts: ***one hundred*** [~~seventy-five~~] dollars ***($100)*** [~~($75)~~] per day for each auditor or five dollars ($5) for each registrant's sales contract examined. In any event, the cost of such examination shall not exceed a total of one thousand ***two hundred fifty*** dollars ***($1,250)*** [~~($1,000)~~] during any twelve (12) month period;

(b) The registrant may pay for this expense using interest moneys which have accrued on the registrant's existing cemetery merchandise trust fund accounts or preconstruction trust fund account or perpetual care account. Any withdrawal of interest for this purpose shall be taken as a pro rata share of all of the trust fund accounts. The Attorney General shall be advised in writing by the registrant when interest moneys are the source of payment and shall receive written certification from the financial institution or registrant that the withdrawal was a pro rata share;

(6) This section shall apply to examinations of all registrant's contracts [~~whether entered into prior to or after July 13, 1984~~].

SECTION 5. A NEW SECTION OF KRS 367.932 TO 367.974 IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General may deny, suspend, or revoke any license granted under KRS 367.940 or levy civil penalties not to exceed five hundred dollars ($500) or both or place the licensee on probation for up to twelve (12) months for any of the following causes:

(a) Obtaining a license through false statement or misrepresentation;

(b) Conducting, or undertaking a substantial step toward conducting his business in an unfair, false, misleading, or deceptive manner;

(c) Entry of a final civil judgment against the licensee for a violation of KRS 367.934 to 367.974, or for entry of a final judgment of conviction for a violation of KRS 367.991;

(d) Entry of a final judgment of conviction against the licensee for any crime involving moral turpitude; or

(e) Violating any of the provisions of KRS 367.932 to 367.974 or any lawful order, rule, or regulation made or issued under KRS 367.932 to 367.974.

(2) The Attorney General shall, before denying, suspending, or revoking a license or imposing fines, file a complaint alleging the grounds upon which the licensee may have his license denied, revoked, or suspended or have fines imposed. A copy of the complaint, together with any exhibits, shall be served upon the defendant licensee at the licensee's last known address. The complainant shall show certification that there has been service by writing to the last known address. The answer shall be returned to the Attorney General's office within twenty (20) days of receipt of the complaint by the defendant licensee. Notice of all formal hearings shall be given at least twenty (20) days prior to the hearing date. All other pleadings, including discovery, filed by the Attorney General or the defendant licensee shall show that a copy has been furnished to the opposing party or parties. Witnesses may be subpoenaed and, with the exception of the Attorney General, the party requesting a subpoena shall pay the cost thereof. A court stenographer may be present at a formal hearing and the costs, including costs for a transcript, shall be paid by the requesting party.

(3) The licensee shall have the opportunity to be heard in person and by counsel in reference to the complaint filed. The hearing on the complaint shall be at a time and place prescribed by the Attorney General.

(4) All hearings shall be conducted by a hearing officer appointed by the Attorney General who shall preside at the hearing and cause a record of the hearing to be prepared. The hearing officer shall prepare a report with recommended findings of fact and conclusions of law for submission to the Attorney General. The report shall be subject to revision by the Attorney General.

(5) If the Attorney General determines that any licensee is guilty of a violation of any of the provisions of KRS 367.932 to 367.974, the license shall be denied, suspended, or revoked or fines imposed. The Attorney General shall furnish the licensee with a definite statement of his findings of facts and his reason or reasons for denial, suspension, or revocation of the rights of the licensee or imposition of fines as the case may be. The findings of fact shall, if supported by substantial evidence, be conclusive, but any person aggrieved shall have the right of an appeal within thirty (30) days after the entry of the order of suspension or revocation and shall do so by filing with the Franklin Circuit Court within the thirty (30) day period.

(6) Any party aggrieved by the action of the Attorney General in denying, suspending, or revoking a license or imposing fines may file in the office of the clerk of the Franklin Circuit Court an attested copy of the proceedings before the Attorney General, provided the aggrieved party shall first post a bond to secure the costs of the action in a sum approved by the clerk of the Circuit Court, with good and solvent surety. The Attorney General shall be a necessary party to all appeals. The Circuit Court clerk shall then docket the case and shall immediately issue a summons for the Attorney General.

Section 6. KRS 367.972 is amended to read as follows:

(1) All of the remedies, powers, and the duties provided for the Attorney General by KRS 367.190 to 367.300 and 367.990 pertaining to acts declared unlawful by KRS 367.170 shall apply with equal force and effect to acts declared unlawful by KRS 367.932 to 367.974 and 367.991 and the pre-need funeral laws existing prior to KRS 367.932 to 367.974 and 367.991.

(2) Nothing in KRS 367.932 to 367.974 and 367.991 shall be construed to limit or restrict the exercise of powers or the performance of the duties of the Attorney General which he is authorized to exercise or perform under any other provision of law ***including direct court action to obtain injunctive relief and revocation of license***. The Attorney General has the power to establish such rules and regulations as are necessary to carry out these provisions.

SB 321, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context requires otherwise:

(1) "Amateur athletics" means any interscholastic athletics in which the participating athletes are elementary or secondary school students of any public or private institution of learning; any intercollegiate athletics in which the participating athletes are students of any public or private institution of higher education; or any athletics sponsored or regulated by amateur athletic associations including, but not limited to, the following:

(a) United States Olympic Committee;

(b) National Collegiate Athletic Association;

(c) National Association of Intercollegiate Athletics;

(d) Kentucky High School Athletic Association;

(e) Kentucky Amateur Athletics Union;

(f) Bluegrass State Games;

(g) Little League Baseball;

(h) Amateur Softball Association;

(i) Babe Ruth Leagues of Kentucky;

(j) American Legion Baseball;

(k) Kentucky Youth Soccer Association; or

(l) Kentucky Special Olympics;

(2) "Cabinet" means the Justice Cabinet;

(3) "Charitable organization" means any charitable, educational, or religious organization or institution, or any fraternal society or association operating under the lodge system, the net earnings of which are devoted exclusively to religious, scientific, literary, educational, or fraternal purposes;

(4) "Charitable gaming," "licensed charitable gaming," or "charitable gaming activity" means bingo or any other game of chance approved by the cabinet and conducted by a charitable organization licensed under Section 2 of this Act. No game of chance shall be approved which is based on the utilization of amateur athletics for any purpose; and

(5) "Licensee" means a charitable organization licensed by the cabinet under Section 2 of this Act to conduct charitable gaming.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) No charitable organization shall engage in charitable gaming in the Commonwealth of Kentucky unless it is licensed by the cabinet. Charitable organizations may apply for licensure on forms provided by the cabinet and shall pay a reasonable license fee to be established by administrative regulations promulgated by the cabinet. Licenses shall be renewed annually.

(2) In order to qualify for a charitable gaming license a charitable organization shall possess a charitable or religious or fraternal society tax exemption according to the Federal Internal Revenue Code and shall have maintained the federal tax-exempt status for a period of five (5) years prior to making application for a license to engage in charitable gaming. In addition, all officers and principals of a charitable organization, and other persons associated with a charitable organization and directly involved in the conduct of charitable gaming activities, shall meet the following requirements:

(a) Has not been convicted of a felony related to the security or integrity of charitable gaming in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each felony;

(b) Has not been convicted of any illegal gambling activity in this or any other jurisdiction, unless at least ten (10) years have passed since satisfactory completion of the sentence or probation imposed by the court for each felony;

(c) Has not been found to have violated any of the provisions of Sections 1 to 6 of this Act or any administrative regulation promulgated by the cabinet, unless at least ten (10) years have passed since the violation;

(d) Is not an employee of the cabinet; and

(e) Has not made a statement of material fact to the cabinet, knowing the statement to be false or misleading, unless at least ten (10) years have passed since the statement was made.

(3) A license to engage in charitable gaming may be denied or revoked for the following reasons:

(a) Failure to secure a license prior to engaging in charitable gaming;

(b) Failure to maintain federal tax-exempt status;

(c) Fraud or misrepresentation in applying for and receiving a license;

(d) Failure to submit quarterly reports or submission of information in a quarterly report which is materially false;

(e) Failure to remit moneys due to the cabinet under Section 5 of this Act; or

(f) Conduct of any activities that are expressly prohibited by law or administrative regulation of the cabinet.

(4) Any charitable organization which has been denied a license or has had its license revoked, may appeal the decision in accordance with administrative regulations promulgated by the cabinet.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) Charitable gaming by a licensee shall be conducted, promoted, and administered exclusively by volunteer personnel who are members of the charitable organizations and receive no remuneration for their services. The volunteer personnel may accept tips from patrons of the charitable gaming activity.

(2) Charitable gaming may not be conducted on or within any leased premises if the rental charge is to be paid, in whole or in part, on the basis of a percentage of the receipts or net proceeds derived from the operation of the game or by reference to the number of people in attendance at the game. An owner, primary leaseholder, or manager of a property leased to a charitable organization and on which charitable gaming is conducted shall not under any circumstances manage or operate the charitable gaming activities conducted on the property unless the owner, primary leaseholder, or manager of the property leased is also the charitable organization conducting the charitable gaming activity.

(3) The charitable gaming activities of any one (1) organization shall be limited to only one (1) location within the county where the charitable organization is domiciled or a contiguous county, and shall be limited to two (2) days in any one (1) week for a period not to exceed ten (10) hours in any one (1) day. No organization shall conduct gaming activities for more than two (2) consecutive days.

(4) Approved suborganizations of a primary organization which conducts charitable gaming, such as a ladies auxiliary, or other specialized group operating under the direct control of the primary organization, which suborganizations conduct a charitable gaming activity may, with the written permission of the governing board of the primary organization, conduct charitable gaming for an additional two (2) days per week. The suborganization shall, however, comply with the requirements of this section.

(5) Any proceeds resulting from the operation of charitable gaming activities shall be utilized solely for purposes consistent with the charitable or religious or fraternal society functions and objectives for which the operating organization or institution or fraternal society received and maintained federal tax-exempt status.

(6) Prizes paid out to individuals by any charitable organization or suborganization shall be limited to not more than five thousand dollars ($5,000), or property of equivalent value, per session.

(7) The cabinet may by promulgation of administrative regulations prescribe other requirements and restrictions as may be necessary to insure the integrity of charitable gaming and protection of the public.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

(1) Accurate records and books shall be kept by a licensee conducting charitable gaming showing the total number of persons who played; the total amount of moneys received from persons who played, attended, or participated in the charitable gaming activity; the expenses incurred; the name and address of each person to whom expenses were paid; the amount of the net proceeds received by the organization from charitable

gaming; and other information as may be required by the administrative regulations promulgated by the cabinet.

(2) All proceeds from the charitable gaming activity, except for prizes paid out, shall be deposited into a checking account devoted exclusively to the charitable gaming activity. Money for expenses shall be withdrawn only by checks having preprinted consecutive numbers and made payable to specific persons or organizations. The net proceeds of the charitable gaming activity may be removed from the checking account and placed into a separate depository account held by the organization conducting the charitable gaming activity.

(3) All suborganizations which are authorized by the primary organization to conduct charitable gaming activity shall comply with all provisions of this section, except that they shall make their financial reports to the primary organization and the primary organization shall include the reports and bookkeeping entries of the suborganization with those of the parent organization. Entries shall be entered in such a manner as to separately identify primary organization earnings and charitable gaming activities and suborganization earnings and charitable gaming activities.

(4) A quarterly report on all charitable gaming conducted shall be submitted to the cabinet by each licensee. The cabinet shall specify, by promulgation of administrative regulations, information to be contained in the quarterly report.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

Each distributor or wholesaler of charitable gaming supplies shall remit to the cabinet an amount equal to six percent (6%) of gross revenues received from the sale of all charitable gaming supplies. This fee shall be in addition to the Kentucky sales tax imposed pursuant to KRS 139.200. Remittance shall be on forms provided by the cabinet and in accordance with a time schedule established by the cabinet by promulgation of administrative regulations. These moneys, along with license fees paid pursuant to Section 2 of this Act, shall be deposited in a trust and agency account and shall be accounted for in accordance with administrative regulations promulgated by the cabinet, and these moneys shall be used to administer and enforce the provisions of Sections 1 to 6 of this Act. Funds in this trust and agency account shall not lapse at the end of any fiscal year but shall be carried over to the next fiscal year.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 6 of this Act shall not be construed to apply to the fund raising efforts or practices of any type in existence at least three (3) years prior to the effective date of this Act by or on behalf of any center or society for the performing arts in any county containing a city of the second class.

Section 7. KRS 525.090 is amended to read as follows:

(1) A person is guilty of loitering when he:

(a) Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia, except that the provisions of this section shall not apply if the person is participating in *licensed charitable gaming* [~~activity~~] defined by ***Section 1 of this Act*** [~~KRS 528.010(10)~~]; or

(b) Loiters or remains in a public place for the purpose of unlawfully using a controlled substance; or

(c) Loiters or remains in or about a school, college or university building or grounds, not having any reason or relationship involving custody of or responsibility for a pupil or student or any other specific legitimate reason for being there and not having written permission from anyone authorized to grant the same; or

(d) Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade, or commercial transactions involving the sale of merchandise or services.

(2) Loitering is a violation.

Section 8. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity" — A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. The conduct shall include, but is not limited to, conduct directed toward the establishment of the particular game, contest, scheme, device, or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment, or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme, or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome. ***"Gambling" shall not include charitable gaming which is licensed and regulated by the Justice Cabinet in accordance with KRS Chapter 15A.***

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device,including but not limited to roulette wheels, gambling tables and similar devices, designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property;

(c) But, the following shall not be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

2. Electro-mechanical pinball machines specially designed, constructed, set up, and kept to be played for amusement only. Any pinball machine shall be made to receive and react only to the deposit of coins during the course of a game. The ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost. The maximum number of free

games that can be won, registered, or accumulated at one (1) time in operation of any pinball machine shall not exceed thirty (30) free games. Any pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released. Any pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded, or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums, or property of any kind for scores, combinations, or free games obtained in playing the pinball machine in which the person has an interest as owner, operator, keeper, or otherwise.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and

2. The winning chances are to be determined by a drawing or by some other method based upon the element of chance; and

3. The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in paragraph (a) of this subsection is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) of this section is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity" — A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object, or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment, or a privilege of playing at a game or scheme without charge.

[~~(10) "Charitable gaming" means games of chance, including bingo, operated by charitable or religious organizations or institutions, or fraternal societies, or associations, operating under the lodge system, the net earnings of which are devoted exclusively to religious, scientific, literary, educational, or fraternal purposes. In order to assume a charitable gaming status, the charitable or religious organization or institution, or fraternal society and the gaming activity conducted thereby shall conform to the requirements of KRS 528.130 and 528.140.~~]

Section 9. KRS 528.100 is amended to read as follows:

Any gambling device or gambling record possessed or used in violation of this chapter is forfeited to the state, and shall be disposed of in accordance with KRS 500.090, except that the provisions of this section shall not apply to ***licensed*** charitable gaming activity as defined by ***Section 1 of this Act*** [~~KRS 528.010(10)~~].

Section 10. The following KRS sections are repealed:

528.130 Charitable gaming.

528.140 Registration of organization conducting charitable gaming required.

The Committee Substitute to **SB 321** is as follows:

SB 321, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 528.130 is amended to read as follows:

(1) The status of "charitable gaming" shall be a defense to any prosecution under this chapter only if the charitable or religious organization or institution or fraternal society, and the charitable gaming activity conducted thereby:

(a) Shall have registered with the county clerk's office in compliance with KRS 528.140; and

(b) Shall conform in full to the requirements of this section.

(2) The organization conducting the gaming activity, and receiving the proceeds therefrom, shall maintain a charitable or religious or fraternal society tax exemption according to the Federal Internal Revenue Code, ***as defined in Sections 501(c)(3), (4), (8), (10), and (19) of that code,*** [~~and~~] shall have maintained federal tax-exempt status for a period of five (5) years prior to any gaming activity prosecuted under this chapter, ***and shall have maintained a place of business or operations, other than for the purposes of conducting charitable gaming, in the county in which the gaming activity is conducted, for a period of one (1) year prior to engaging in charitable gaming in that county. The letter from the Internal Revenue Service granting tax exempt status shall be displayed prominently at the premises in which charitable gaming is conducted, at all times gaming is conducted.***

(3) The gaming activity shall be conducted, promoted, and administered exclusively by ***the charitable organization under whose tax-exempt status the charitable gaming is being conducted, using*** volunteer personnel receiving no remuneration for their services. ***No charitable organization shall contract with, or otherwise utilize the services of, any management company or other organization in conducting charitable gaming activities.*** The volunteer personnel may accept tips from patrons of the gaming activity.

(4) ***(a)*** Charitable gaming may not be conducted on or within any leased premises if the rental charge is to be paid, in whole or in part, on the basis of a percentage of the receipts or net proceeds derived from the operation of the game or by reference to the number of people in attendance at the game.

(b) An owner, primary leaseholder, or manager of a property leased to a charitable organization and on which charitable gaming is conducted shall not under any circumstances manage or operate the charitable gaming activities conducted on the property, unless the owner, primary leaseholder, or manager of the property leased is also the charitable organization conducting the charitable gaming activity.

(5) The charitable gaming activities of any one (1) organization shall be limited to only one (1) location, and shall be limited to ***one (1) day*** [~~two (2) days~~] in any one (1) week for a period not to exceed ten (10)

hours in any one (1) day. No organization shall ***award prizes for bingo which shall exceed five thousand dollars ($5,000) cash value in any one (1) day of operations*** [~~conduct gaming activities for more than two (2) consecutive days~~].

(6) ***An*** approved ***suborganization*** [~~suborganizations~~] of a primary organization which conducts charitable gaming, such as a ladies auxiliary, or other specialized group operating under the direct control of the primary organization, which suborganizations conduct a charitable gaming activity may, with the written permission of the governing board of the primary organization, conduct charitable gaming in excess of the organizational limits permitted in subsections (4) and (5) of this section. The suborganization shall, however, comply with the requirements of subsections (4) and (5) of this section.

(7) Accurate records and books shall be kept by the charitable organization conducting the gaming activity showing the total number of persons who played; the total amount of moneys received from persons who played, attended, or participated in the gaming activity; the expenses incurred; the name and address of each person to whom expenses were paid; and the amount of the net proceeds, received by the organization from charitable gaming. ***The primary organization shall have only one (1) approved suborganization, and*** charitable gaming activities by ***the suborganization*** [~~suborganizations~~] of a primary organization shall not exceed ***one (1)*** [~~two (2)~~] additional ***day*** [~~days~~] per week.

(8) ***All cash payments and receipts of any kind associated with the gaming activity shall be handled only by bona fide officers or employees of the charitable organization.*** All proceeds from the gaming activity, except for prizes paid out, shall be deposited into a checking account devoted exclusively to the gaming activity. Money for expenses shall be withdrawn only by checks having preprinted consecutive numbers and made payable to specific persons or organizations. The net proceeds of the gaming activity may be removed from the checking account and placed into a separate depository account held by the organization conducting the gaming activity.

(9) All suborganizations which are authorized by the primary organization to conduct charitable gaming activity shall comply with all provisions of this section, except that they shall make their financial reports to the primary organization and the primary organization shall include the reports and bookkeeping entries of the suborganization with those of the parent organization. Entries shall be entered in such a manner as to separately identify primary organization earnings and activities and suborganization.

(10) Any proceeds resulting from the operation of charitable gaming activities shall be utilized solely for purposes consistent with the charitable or religious or fraternal society functions and objectives for which the operating organization or institution or fraternal society received and maintained federal tax-exempt status.

Section 2. KRS 528.140 is amended to read as follows:

(1) An organization conducting a charitable gaming activity shall register with the county clerk of the county in which the gaming activity will take place. ***The application for registration and all documentation submitted as part of the registration process shall be sworn and subscribed to in a notarized statement as to the truth and validity of the information by the person responsible for the registration.***

(2) The person responsible for registration shall be the same person maintaining the organization's Federal Internal Revenue Code charitable, religious, or fraternal tax exemption.

(3) The organization registered shall provide:

(a) The name and address of the religious, charitable, or fraternal organization or institution.

(b) ***A letter from the Federal Internal Revenue Service showing*** proof of the organization's charitable, religious, or fraternal tax exemption according to the Federal Internal Revenue Code for the last five (5) years.

(c) A quarterly accounting of all money received from the gaming activity, all prizes paid out, all expenses paid, and all moneys retained for charitable use.

(4) The clerk shall receive a fee of ***twenty***-five dollars ***($25)*** [~~($5)~~] for registrations under this section. ***Registrations shall be renewed annually at the same fee.***

(5) The Office of Attorney General shall have authority to investigate any allegations of wrong doing in the conduct of charitable gaming, to audit financial records relating to charitable gaming activity and to enforce applicable laws.

SECTION 3. A NEW SECTION OF KRS CHAPTER 528 IS CREATED TO READ AS FOLLOWS:

(1) Any organization which fails to comply with the provisions of KRS 528.010 and Sections 1 and 2 of this Act, shall not be considered engaging in charitable gaming and shall be subject to appropriate penalties provided in this chapter.

(2) Any organization registered under Section 2 of this Act, which commits fraud in securing registration or makes a material false statement in the registration process or in quarterly reporting, shall be guilty of perjury in the first degree.

(3) Any organization guilty of a violation under subsections (1) and (2) of this section, shall have its registration suspended or revoked by a court, in addition to the penalties imposed in subsections (1) and (2) of this section.

Section 4. Whereas, there is an immediate need to impose more stringent regulation on the conduct of charitable gaming in the Commonwealth of Kentucky in order to protect the public interest, an emergency is declared to exist and this Act shall become effective upon passage and approval by the Governor.

The Committee Title Amendment to **SB 321** is as follows:

Amend printed copy of **SB 321/GA** by amending the title to read as follows:

"An Act relating to charitable gaming and declaring an emergency."

SB 337, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 223 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly finds and declares that because of continuous introduction of new technology and changing concepts in environmental health, it is essential that an environmental health specialist undertake a program of continuing education to maintain professional competency.

(2) Effective July 1, 1993, no environmental health specialist's registration will be renewed until the registrant has submitted proof that shows satisfactory completion, in the previous year, of a continuing education program acceptable to the cabinet. These continuing education requirements shall be determined by administrative regulation of the cabinet.

(3) The cabinet shall promulgate administrative regulations pursuant to KRS Chapter 13A to carry out the provisions of this section, including guidelines and methods for reviewing and approving continuing education.

Section 2. KRS 223.010 is amended to read as follows:

As used in KRS 223.020 to 223.080, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Human Resources;

(2) "Registered ***environmental health specialist or*** sanitarian" means a person trained in the field of ***environmental*** [~~public~~] health [~~sanitation~~] who has qualified for registration in accordance with the provisions of this chapter;

(3) "Secretary" means the secretary of the Cabinet for Human Resources***;***

(4) "Environmental health activity" means those program areas administered by the state and local health departments including, but not limited to, food protection, control of insect and rodents, radiation, private water supplies, on-site waste and other environmental program areas. The term does not cover programs not administered by the Cabinet.

Section 3. KRS 223.020 is amended to read as follows:

(1) The ***secretary*** [~~cabinet~~] shall appoint ***a registered environmental health specialist or*** a sanitarian examining committee consisting of five (5) members. The secretary of the Cabinet for Human Resources shall be an ex officio member. The other four (4) members shall be ***environmental health specialists or*** sanitarians who are ***registered*** [~~qualified for registration~~] under this chapter. The appointed members shall serve for terms of two (2) years and until their successors are appointed and qualify, except that when initial appointments are made under the provisions of this chapter, two (2) members' terms shall be for only one (1) year. Thereafter all appointments shall be for a period of two (2) years.

(2) The examining committee shall conduct, or cause to be conducted, examinations of applicants pursuant to minimum standards and qualifications established by the secretary. The examining committee shall act in an advisory capacity to the secretary in establishing such minimum standards and qualifications.

Section 4. KRS 223.030 is amended to read as follows:

(1) An applicant for registration shall file with the cabinet a written application for registration and submit evidence that the applicant:

(a) Has completed at least an approved four (4) year high school or the equivalent; and

(b) Has completed a four (4) year degree from a college or university, with a minor or twenty-four (24) semester hours in environmental health, biological science, or physical science.

(2) An applicant shall be required to pass a written examination in those subjects that the cabinet prescribes. Written examinations may be supplemented by an oral examination. Upon successfully passing these examinations, the applicant shall be issued a registration as an environmental health specialist or sanitarian.

(3) Those persons previously registered by the cabinet and not engaged in environmental health practice in the Commonwealth of Kentucky, but desiring to maintain the privilege to use the designation of environmental health specialist or "E.H.S." and sanitarian or "R.S." may apply and be granted inactive status by the cabinet in accordance with administrative regulations of the cabinet. Inactive status shall be renewed at least every two (2) years, and those persons granted inactive status shall not be governed by continuing education provisions contained in this chapter. A registered environmental health specialist or sanitarian on inactive status may petition the cabinet for renewal of registration. In that case the registrant

shall meet the requirements of this chapter before being reclassified to active status [~~The cabinet upon application and payment of a ten-dollar ($10) examination fee shall certify as a registered sanitarian any person who meets the qualifications prescribed by the secretary and who has:~~

~~(1) Passed a merit system or civil service examination given by the state or any county or municipality qualifying the applicant as a sanitarian;~~

~~(2) Passed the examination conducted or caused to be conducted by the examining committee; and~~

~~(3) Completed at least two (2) years of active service as a sanitarian with an approved public health agency~~].

Section 5. KRS 223.040 is amended to read as follows:

(1) Persons ***on permanent status*** actively engaged in ***environmental*** [~~public~~] health [~~sanitation~~] work for a recognized and approved public health agency in this state ***on*** [~~for a period of not less than two (2) years prior to~~] July 1, ***1993*** [~~1960~~], shall, upon furnishing adequate proof thereof to the cabinet [~~and upon payment of a fee of five dollars ($5)~~], be entitled to be registered as ***an environmental health specialist or*** [~~a registered~~] sanitarian without examination.

(2) A request for a registration without examination must be submitted to the cabinet by October 31, 1993. After July 1, 1993, only persons registered as an environmental health specialist or sanitarian, unless otherwise exempted, shall be employed by the cabinet or local health agencies to perform environmental health specialist activities; the cabinet shall by administrative regulation provide for probationary employment not to exceed twelve (12) months for persons to qualify through examination when all other qualifications have been met.

Section 6. KRS 223.050 is amended to read as follows:

A fee ***established by administrative regulation promulgated by the cabinet pursuant to KRS Chapter 13A*** [~~of ten dollars ($10)~~] shall accompany the application for examination. All registration certificates issued under the provisions of this chapter shall expire on June 30 following the date of issue, unless renewed by the payment of ***an*** [~~a five dollar ($5)~~] annual renewal fee ***established by administrative regulation promulgated by the cabinet pursuant to KRS Chapter 13A***. All fees collected under the provisions of this chapter shall be paid into the State Treasury and credited to a trust and agency fund to be used by the cabinet in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 7. KRS 223.060 is amended to read as follows:

The cabinet is authorized to enter into reciprocal agreements with other states having a registered ***environmental health specialist's or*** sanitarian's act ***or its equivalent, if*** [~~provided~~] the qualifications of ***that*** [~~such~~] state are at least equal to the requirements of this chapter and the regulations promulgated hereunder.

Section 8. KRS 223.070 is amended to read as follows:

The cabinet shall have the power to revoke the certificate of registration of any registrant for unprofessional conduct or the practice of any fraud or deceit in obtaining registration, or any gross negligence, incompetency, or misconduct in the practice of ***environmental*** [~~public~~] health sanitation.

Section 9. KRS 223.080 is amended to read as follows:

No person not registered under the provisions of this chapter shall hold himself out as a registered ***environmental health specialist*** [~~sanitarian~~] nor append to his name the initials "***E.H.S. or*** R.S.".

Section 10. KRS 223.990 is amended to read as follows:

Any person violating KRS 223.080 may be fined not more than one ***thousand*** [~~hundred~~] dollars ***($1,000)*** [~~($100)~~] or imprisoned not more than six (6) months.

SB 350, AN ACT relating to real estate appraisers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324A.010 is amended to read as follows:

As used in KRS 324A.010 to 324A.090, unless the context requires otherwise:

(1) "Appraisal" [~~or "real estate appraisal"~~] means an ***oral or written communication independently and impartially prepared by a licensed or certified appraiser setting forth an*** analysis, opinion, or conclusion relating to the nature, quality, value, or utility of specified interests in, or aspects of, identified real estate, ***as of a specified date,*** for or in expectation of compensation;

(2) "Appraisal assignment" means an engagement for which an appraiser is employed or retained to act, or would be perceived by ***other*** [~~third~~] parties or the public as acting, as a [~~disinterested~~] third party in rendering an unbiased real estate appraisal;

(3) "Appraisal report" means any communication, written or oral, conveying a real estate appraisal, and all other reports communicating an appraisal analysis, opinion, or conclusion;

(4) "Board" means the Real Estate Appraisers Board created under KRS 324A.015;

(5) [~~"General appraisal certificate" means a certificate issued pursuant to the provisions of KRS 324A.045 for appraisal of all types of real estate;~~

~~(6)~~] "Real estate" or "real property" means real estate in its ordinary meaning and includes any leasehold or other estate or interest in, over, or under land, including leaseholds, [~~and~~] all appurtenances ***and improvements thereto, and may include personal property which is integral to the use of the real property as appraised***[~~;~~

~~(7) "Residential appraisal certificate" means a certificate issued pursuant to the provisions of KRS 324A.045 limited to certification for appraisals of residential real estate or real property of no more than four (4) residential units;~~

~~(8) "Kentucky certified appraisal" means any appraisal which is identified as a state certified appraisal report or is in any way described as being prepared by a state-certified real estate appraiser, with either a general or residential appraisal certification;~~

~~(9) "Kentucky certified real property appraiser" (KCRPA) means a person who holds a current valid general appraisal certificate issued pursuant to the provisions of KRS 324A.045;~~

~~(10) "Kentucky certified residential appraiser" (KCRA) means a person who holds a current, valid residential appraisal certificate issued pursuant to the provisions of KRS 324A.045; and~~

~~(11) "Standards of professional appraisal practice" means those standards promulgated or incorporated by reference by regulation of the board~~].

Section 2. KRS 324A.015 is amended to read as follows:

(1) There is created a Real Estate Appraisers Board consisting of five (5) members, two (2) of whom shall be certified real estate appraisers, one (1) of whom shall represent the public and shall not be associated with or financially interested in the practice of real estate appraisals, and two (2) of whom shall be employed in the lending industry. The board shall administer the provisions of this chapter and may ***promulgate*** [~~issue~~] administrative regulations necessary to effectuate the provisions of KRS 324A.010 to 324A.090.

(2) The board members shall be appointed by the Governor with initial appointments for two (2) members including the public member, for terms of three (3) years, two (2) members for terms of two (2) years, and one (1) member for a term of one (1) year. Not more than one (1) board member shall be from any one (1) county within Kentucky. Thereafter, the members shall be appointed by the Governor for staggered terms of three (3) years. No person shall serve more than two (2) full consecutive terms.

(3) The initial appraiser appointees to the board shall not be required to be certified, but rather shall, by their sworn statement in writing and signed, have engaged in the appraisal of real estate for at least ten (10) years within the Commonwealth of Kentucky.

(4) A board member shall be automatically removed from the board and a vacancy shall occur when:

(a) An appraiser member of the board ceases to be certified;

(b) A consumer member of the board acquires a certification as an appraiser;

(c) A lending industry member ceases to be employed in the lending industry;

(d) A board member enters a plea of guilty to, or has been found guilty***,*** of a felony and the time for appeal has passed or the judgment of conviction has been finally affirmed on appeal; or

(e) A board member ceases to be a bona fide resident of the Commonwealth of Kentucky.

(5) The board shall adopt a seal with the design as the board may prescribe, by which it shall authenticate its proceedings. Copies of all records and papers in the office of the board, duly certified and authenticated by the seal of the board, shall be received in evidence in all courts equally and with like effect as the original. All records kept in the office of the board under the authority of this chapter shall be open to public inspection in accordance with KRS 61.820 to 61.884 and consistent with regulations prescribed by the board.

Section 3. KRS 324A.030 is amended to read as follows:

(1) ***On the effective date of this Act*** [~~Effective January 1, 1991~~], it shall be unlawful, unless certified ***or licensed*** by the board [~~as a state certified real estate appraiser under a general appraisal certification, or residential appraisal certification~~], for any person to:

(a) Assume or use any title, designation, or abbreviation likely to create the impression ***that he holds a license or certificate issued by the board*** [~~of certification as a Kentucky certified residential appraiser (KCRA) or a Kentucky certified real property appraiser (KCRPA)~~];

(b) Describe or refer to any appraisal or evaluation of real estate by the term, "state certified"***, "state licensed", or words of substantially similar meaning***; or

(c) Assume or use any title, designation, or abbreviation likely to create the impression of certification ***or licensure*** as a state certified real estate appraiser firm, partnership or corporation.

(2) [~~A holder of a Kentucky certificate of any type may prepare appraisals for any and all types of real estate, provided such appraisals are not described or referred to by an incorrect statement of certification~~

~~by type.~~] The holder of a certificate ***or license issued by the board*** shall not assume or use any title, designation, or abbreviation likely to create the impression of certification ***or licensure*** by the board other than the correct type of certification ***or licensure.***

(3) Each appraiser certified ***or licensed*** under this chapter shall have and maintain a definite place of business in this state. If the appraiser is a nonresident, it is not mandatory to maintain an active place of business in this state if a ***definite place of*** business [~~office~~] is maintained in the state where the appraiser resides.

(4) Each appraiser certified ***or licensed*** under this chapter shall notify the board of any change of business address, change of company name, or change of surname, within ***thirty (30)*** [~~ten (10)~~] days of the change.

(5) In the case of the death of an appraiser certified ***or licensed*** under the provisions of ***this chapter*** [~~KRS 324A.010 to 324A.090~~], the board may, in its sound discretion, permit a suitable individual to complete the affairs and appraisal assignments of the deceased appraiser.

(6) For any employee of the Transportation Cabinet who performs, as part of his job description, real estate appraisals for which certification is required, the Transportation Cabinet shall bear the costs of initial application, examination, ***continued education,*** and annual renewal.

(7) (a) Those Transportation Cabinet employees serving as right-of-way agents or supervisors, who actually perform on-site appraisals as part of their job descriptions and who have obtained an appraiser certification under the provisions of KRS 324A.010 to 324A.090, shall receive a five percent (5%) salary increase effective January 1 following certification. Those right-of-way agents or supervisors who received certification prior to January 1, 1991, shall receive the salary increase effective January 1, 1991.

(b) The salary increases provided for in subsection (a) of this section shall be made within existing Transportation Cabinet appropriations.

Section 4. KRS 324A.035 is amended to read as follows:

(1) ***The board shall promulgate administrative regulations pursuant to the provisions of this chapter and KRS Chapter 13A for certification or licensure of appraisers of real property in federally related transactions. Requirements established by the board relating to appraisers of federally related transactions shall not exceed the minimum requirements established by federal law or regulation;***

(2) The board shall promulgate administrative regulations pursuant to KRS Chapter 13A for certification or licensure of appraisers of real property in non-federally related transactions.

(a) Appraisers who wish to be limited to appraisals of non-federally related transactions, and who have engaged in the appraisal of real estate for at least ten (10) years prior to the effective date of this Act, shall be certified or licensed as appraisers of non-federally related transactions.

(b) Appraisers who wish to be limited to appraisals of non-federally related transactions, and who have not engaged in the appraisal of real estate for at least ten (10) years prior to the effective date of this Act, shall be certified or licensed as appraisers of non-federally related transactions if they meet the certification or licensure requirements established by the board.

(3) The board shall establish by administrative regulations requirements for:

(a) Classifications of appraisers;

(b) Certification and licensure;

(c) Renewal, suspension, or revocation of certification or licensure;

(d) Standards of professional appraisal practice, including experience, education, and ethics;

(e) Examination of applicants for certification or licensure; and

(f) Continuing education of appraisers [~~Certificates shall be granted only to persons who are deemed by the board to be competent to render appraisals, who have reached the age of eighteen (18), and who are high school graduates or hold a high school equivalency diploma.~~

~~(2) Each applicant for a real estate appraisers certificate may also be required by board regulation to have classroom instruction or experience in real estate appraisal, or both, but the total number of classroom hours and experience required shall not exceed the minimum number required by federal law or regulation.~~

~~(3) Each person who files an application for an initial appraiser certificate within one (1) year of the date established by the board as the first date on which applications will be accepted under this section, and who, at the time of filing that application, does not satisfy the educational requirements for the class of certification sought, is exempt from those educational requirements for the term of the initial certification. In applying for a renewal certificate, a state-certified real estate appraiser who was exempted from the educational requirements of this section when applying for his initial appraiser certificate shall present satisfactory evidence to the board that he has completed the educational requirements for the certification to be renewed~~].

Section 5. KRS 324A.040 is amended to read as follows:

(1) All applications for ***certification or licensure*** [~~certificates~~] shall be made in writing ***to the board and shall***[~~,~~] specify the classification of the certificate ***or license*** being applied for by the applicant, and shall contain all information required by the board.

(2) ***Applicants for certification or licensure shall:***

(a) Successfully pass the examination required by the board; and

(b) Meet other requirements established by this chapter and administrative regulations of the board [~~Each applicant for a certificate shall demonstrate competence, by successfully passing a written examination which shall be of scope and content sufficient to establish the competency of the applicant for the particular certificate sought. Any examination used by the board shall be validated by a reputable testing authority as to its effectiveness in measuring a person's ability to competently appraise real estate~~].

(3) The examination shall be given at [~~such~~] times and places within the state as the board shall prescribe; provided, however, the examination shall be given at least two (2) times during each calendar year. Notice of passing or failing the examination shall be provided to each applicant.

Section 6. KRS 324A.045 is amended to read as follows:

(1) The board shall issue to each qualified applicant a certificate ***or license*** in form and size as shall be prescribed by the board.

(2) Every certificate ***and license*** shall be subject to annual renewal on the date or dates determined by the board by ***administrative*** regulation. Each certificate ***and license*** holder shall submit proof of compliance with the continuing education requirements when appropriate and the annual renewal fee to the board on or before the last day of the designated month. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time.

(3) If the certificate ***or license*** holder fails to renew in a timely manner, the certificate ***or license*** shall expire. Within six (6) months after the renewal date, the former certificate ***or license*** holder ***shall be reinstated*** [~~may reinstate the certificate~~] by complying with all appropriate renewal requirements and paying a late fee not to exceed two hundred dollars ($200).

(4) If six (6) months or more elapse ***after*** [~~from~~] the renewal date, the former certificate ***or license*** holder shall be required to meet all ***requirements***[~~provisions for certification~~] as if [~~newly~~] applying for ***initial*** certification ***or licensure.***

Section 7. KRS 324A.050 is amended to read as follows:

The board may refuse issuance or renewal of a certificate ***or license*** for cause, fine up to five hundred dollars ($500), suspend, or revoke a certificate ***or license*** at any time, when the applicant or certificate ***or license*** holder, in performing or attempting to perform ***an appraisal*** [~~any of the actions set forth herein~~], is deemed guilty of:

(1) Procuring or attempting to procure a certificate ***or license*** by knowingly making a false statement or submitting false information, or through any form of fraud or misrepresentation;

(2) Refusing to provide complete information in response to a question in an application ***to the board*** [~~for certification~~] or failing to meet the minimum qualifications established by ***the board*** [~~KRS 324A.035~~];

(3) Being convicted of any felony, or of a misdemeanor related to real estate appraising;

(4) Committing an act involving dishonesty, fraud, or misrepresentation;

(5) Willfully disregarding or violating any of the provisions of KRS 324A.010 to 324A.090 or the administrative regulations of the board;

(6) [~~Accepting an appraisal assignment when the employment itself is contingent upon the appraiser reporting a predetermined analysis or opinion, or where the fee to be paid for the performance of the appraisal assignment is contingent upon the opinion, conclusion, or valuation reached, or upon the consequences resulting from the appraisal assignment;~~

~~(7)~~] Violating the confidential nature of records to which the appraiser gained access through employment or engagement as an appraiser;

(7)[~~(8)~~] Committing any other conduct which is related to dealings as ***an*** [~~a Kentucky certified real estate~~] appraiser and which constitutes or demonstrates bad faith, untrustworthiness, impropriety, fraud, dishonesty, or any unlawful act;

(8)[~~(9)~~] Failing or refusing, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report, or communicating an appraisal;

(9)[~~(10)~~] Repeatedly being negligent or incompetent in developing an appraisal, in preparing an appraisal report, or in communicating an appraisal; or

(10)[~~(11)~~] Failing to observe one (1) or more of the Standards of Professional Appraisal Practice ***established by the board.***

Section 8. KRS 324A.065 is amended to read as follows:

The board shall establish by regulation and collect the following fees ***for certification or licensure as an appraiser for:***

(1) ***Federally related tansactions:***

(a) Initial application fee in an amount not to exceed two hundred dollars ($200);

(b) Examination fee in an amount not to exceed two hundred dollars ($200);

(c) An annual certificate or licensure fee in an amount not to exceed two hundred dollars ($200);

1. Duplicate certificate fee in an amount not to exceed ten dollars ($10);

2. Certificate correction fee in an amount not to exceed ten dollars ($10);

(d) Roster fee not to exceed fifty dollars ($50).

(2) Non-federally related transactions:

(a) Initial application fee in an amount not to exceed one hundred dollars ($100);

(b) Examination fee in an amount not to exceed one hundred dollars ($100);

(c) An annual certificate or licensure renewal fee in an amount not to exceed one hundred dollars ($100);

1. Duplicate certificate fee in an amount not to exceed five dollars ($5);

2. Certificate correction fee in an amount not to exceed five dollars ($5);

(d) Roster fee not to exceed twenty-five dollars ($25).

(3) (a) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury.

(b) All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board.

(4) All fees and charges collected by the board under the provisions of this chapter shall be paid into the Real Estate Appraisers Board's trust and agency account in the State Treasury. All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board [~~An initial application fee for a Kentucky certified real property appraiser certification or a Kentucky certified residential appraiser certification in an amount not to exceed two hundred dollars ($200);~~

~~(2) An examination fee for a Kentucky real property appraiser certification or a residential appraiser certification, in an amount not to exceed two hundred dollars ($200);~~

~~(3) An annual certificate renewal fee for a Kentucky certified real property appraiser certification or a Kentucky certified residential appraiser certification in an amount not to exceed two hundred dollars ($200);~~

~~(4) For each duplicate certificate, a fee in an amount not to exceed ten dollars ($10); and~~

~~(5) A fee for any change of information on the certificate in an amount not to exceed ten dollars ($10).~~

~~(6) All fees and charges collected by the board under the provisions of this chapter shall be paid into a trust and agency account in the State Treasury. All expenses incurred by the board under the provisions of this chapter, including compensation to the board members and staff, shall be paid out of this account, subject to approval of the board~~].

Section 9. KRS 324A.090 is amended to read as follows:

On the effective date of this Act [~~Effective January 1, 1991~~], any person who is not a certified real estate appraiser who engages in an activity described in KRS 324A.030(1), shall be guilty of a class A misdemeanor. Each violation should be regarded as a separate offense.

Section 10. The following KRS sections are repealed:

324A.070 Standards of professional appraisal practice — Continuing education.

Section 11. Whereas there is a need to conform Kentucky law with federal requirements prior to the termination of administrative regulations of the Board of Real Estate Appraisers effective April 15, 1992, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

SB 373, AN ACT relating to the procurement of architectural and engineering services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context requires otherwise:

(1) "Architectural services" means any professional service involved in the practice of architecture as defined in KRS 323.010;

(2) "Engineering services" means any professional service as defined in KRS 322.010(3) and (4);

(3) "Firm" means any individual, firm, partnership, corporation, or other legal entity permitted by law to practice the profession of architecture or engineering and provide the services defined in subsections (1) and (2) of this section;

(4) "Local public agency" shall have the same meaning given in KRS 45A.345;

(5) "Project" means any capital improvement project, study, plan, survey, or new or existing program activity of a political subdivision that requires architectural or engineering services;

(6) "Qualification statement" means federal form SF254 and any other supporting documents that present a firm's qualifications and performance data.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) In the procurement of architectural and engineering services, each local public agency may adopt the provisions of Sections 3, 4, and 5 of this Act. Upon adoption of these provisions, each local public agency shall:

(a) Establish a monetary limit; and

(b) Use the process set out in Sections 3, 4, and 5 of this Act to procure architectural or engineering services for projects whose costs exceed this limit.

(2) If any agency adopts the provisions of Sections 3, 4, and 5 of this Act, then it shall accept qualification statements from firms engaged in the lawful practice of their professions. These qualification statements shall remain on file for one (1) year from the date they are submitted.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) When a project requiring architectural or engineering services is proposed by a local public agency, except as provided by subsections (2) and (3) of this section, the agency shall:

(a) Mail a notice requesting a statement of interest in the proposed project from all firms that have a current qualifications statement on file;

(b) Advertise the proposed project, in a newspaper that meets the requirements of KRS 424.120, requesting firms to submit qualification statements and statements of interest in for the proposed project; or

(c) Contact an appropriate professional organization for a list of firms capable of providing the necessary services.

(2) If the regulations of a federal department or agency require a procurement process that is different from the process in Sections 1 to 5 of this Act in order that financial aid can be granted, then the local government agency may exempt itself from the provisions of Sections 1 to 5 of this Act.

(3) When a local public agency has formed a working relationship with one (1) or more firms based on work previously contracted between them, then the local public agency may enter directly into negotiations according to Section 5 of this Act. If no contract is successfully negotiated, then the local public agency shall comply with Sections 3, 4, and 5 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A local public agency shall evaluate those firms submitting statements of interest in a proposed project according to the following criteria:

(a) Qualifications;

(b) Ability of professional personnel;

(c) Past record and experience;

(d) Performance data on file;

(e) Willingness to meet time and budget requirements;

(f) Location;

(g) Workload; and

(h) Any other factors that the local public agency has set forth in writing.

(2) The local public agency may then conduct discussions and require interviews with firms deemed to be the most qualified according to the criteria in subsection (1) of this section. Bids for the cost of the proposed project shall not be a factor in the evaluation of firms until negotiations are begun in accordance with Section 5 of this Act.

(3) The local public agency shall select, on the basis of the evaluations done in subsections (1) and (2) of this section, at least three (3) firms that are judged to be the most qualified and rank them accordingly. If fewer than three (3) firms are judged to be qualified, then those firms that remain shall be ranked in like manner.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Based on the rankings developed in subsection (3) of Section 4 of this Act, the local public agency shall contact the highest-ranked firm and attempt to negotiate a contract for a fair and reasonable value that takes the following into account:

(a) The estimated value of the services needed;

(b) The scope and complexity of the proposed project;

(c) The business risk anticipated; and

(d) The professional nature of the services required.

(2) If the local public agency is unable to negotiate a satisfactory contract with the highest-ranked firm, negotiations with that firm shall be terminated. The local public agency shall then go through the negotiation process with the next firm in the rankings, continuing this procedure until an agreement is reached or the list of ranked firms is exhausted.

(3) If negotiations with all of the ranked firms fail to result in a satisfactory contract, the local public agency shall reevaluate the architectural or engineering services involved in the proposed project and proceed to comply with Sections 3 and 4 of this Act until a contract is successfully negotiated.

Section 6. When any local public agency chooses to adopt the provisions of Section 2 of this Act, it may contact the Kentucky League of Cities, the Kentucky County Judge/Executives Association, or the Kentucky Magistrates and Commissioners Association, each of which has consented to administer programs provided by the Consulting Engineers Council of Kentucky, the Kentucky Society of Architects, and the Kentucky Society of Professional Engineers to train participating local public agencies in this type of qualification based procurement.

SB 422, AN ACT relating to the practice of chiropractic.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 312.015 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Kentucky State Board of Chiropractic Examiners;

(2) Subject to the limitations of subsection (4) of this section "chiropractic" means the science of diagnosing and adjusting ***or manipulating*** the subluxations of the articulations of the human spine and its adjacent tissues;

(3) Subject to the limitations of subsection (4) of this section "chiropractor" means one qualified by experience and training and licensed by the board to diagnose his patients and to treat those of his patients diagnosed as having diseases or disorders relating to subluxations of the articulations of the human spine and its adjacent tissues by indicated adjustment ***or manipulation*** of those subluxations and by applying methods of treatment designed to augment those adjustments ***or manipulation***. The terms "chiropractic," "doctor of chiropractic," and "chiropractor" shall be synonymous, and shall be construed to mean a practitioner of chiropractic as defined in this section.

(4) "Peer review" means an evaluation, based upon generally accepted standards, by a peer review committee established in KRS 312.200 ***or by other persons performing peer review pursuant to subsection (3) of Section 11 of this Act***, of the appropriateness, quality, utilization, and cost of chiropractic health care and health service provided to a patient.

(5) The practice of chiropractic ***shall*** [~~does~~] not include the practice of medicine or osteopathy as defined in KRS 311.550, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice as a nurse as defined in KRS 314.011, or the practice of pharmacy by persons licensed and registered under KRS 315.050.

Section 2. KRS 312.019 is amended to read as follows:

(1) The board shall administer the provisions of this chapter and the administrative regulations ***promulgated by*** [~~of~~] the board relating to the practice of chiropractic.

(2) The board shall pass upon the qualifications of applicants for a license, certification, or registration to practice chiropractic. It shall examine, license, certify, register, and renew the license, certification, or registration of duly qualified applicants.

(3) The board may deny, revoke, refuse to renew, or suspend any license, certification, or registration issued by it.

(4) The board shall adopt a seal which shall be affixed to all licenses, certifications, and registrations issued by the board and to such other documents as the board deems necessary.

(5) The board shall regulate the practice of chiropractic by persons licensed or certified by it and shall enforce the provisions of this chapter and the ***administrative*** [~~rules and~~] regulations of the board. The board may investigate violations and cause the prosecution of persons violating the provisions of this chapter or the administrative regulations ***promulgated by*** [~~of~~] the board.

(6) The board may employ such personnel and incur such expenses as may be necessary for the performance of its duties and the enforcement of this chapter.

(7) The board may prescribe and collect reasonable fees for the issuance and renewal of licenses, certifications, and registrations and the administration of examinations as provided in KRS 312.095[~~, 312.105~~] and 312.175.

(8) The board may inspect at all reasonable times any chiropractic office or place where chiropractic services are performed.

(9) The board may ***promulgate*** [~~adopt~~] and from time to time amend administrative regulations, consistent with the provisions of this chapter and in accordance with the provisions of KRS Chapter 13A, governing

the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter and the proper performance of its duties, including but not limited to:

(a) A code of ethical conduct governing the practice of chiropractic;

(b) Requirements, standards, and examinations to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and certifications;

(c) Matters pertaining to the content and conduct of examinations;

(d) Matters pertaining to the operation and registration of chiropractic clinics;

(e) Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic;

(f) The type and character of postgraduate study to be done by any licensee in order to comply with the provisions of KRS 312.175;

(g) ***Regulation of*** [~~Regulate~~] forms of advertising or solicitation that are false, misleading, or deceptive or otherwise in violation of this chapter. The board may require a seventy-two (72) hour rescission period for consumers responding to certain forms of solicitation or advertising proposing or offering a series or course of treatments. ***The board may require that advertisements or solicitations stating coverage available from third-party payors include a conspicuous notice that persons may be required to submit to an independent evaluation which may result in a determination that the all or part of the services are unreasonable or unnecessary;***

(h) ***Establishing*** [~~Establish~~] a recommended course of pre-chiropractic education to be completed prior to entry into chiropractic college and the establishment of a preceptorship program for students enrolled in accredited chiropractic colleges that conform to KRS 312.085 to meet the standards of accreditation of the Council on Chiropractic Education.

(i) Registration and regulation of chiropractic management consultants operating in Kentucky. The board may impose annual registration fees not to exceed two hundred dollars ($200); and

(j) Establishing minimum standards for recordkeeping in chiropractic offices, the issuance of itemized statements, and requiring that any record or report include the name of the treating chiropractor.

Section 3. KRS 312.055 is amended to read as follows:

(1) The board shall elect from its members a president, vice-president, and an executive secretary. The executive secretary shall receive an annual salary to be ***established*** [~~fixed~~] by the board ***by promulgation of administrative regulations.***

(2) Each member of the board shall receive his necessary traveling expenses and members other than the executive secretary shall receive a per diem ***not to exceed one hundred dollars ($100)*** [~~of thirty-five dollars ($35)~~] for each day they actually spend in the discharge of their official duties.

Section 4. KRS 312.085 is amended to read as follows:

(1) Any persons desiring to practice chiropractic in this state, shall make application to the board, through its executive secretary, in the form and in the manner ***established*** [~~required~~] by the board ***by promulgation of administrative regulations***, at least thirty (30) days prior to any meeting held for examinations by the board. Each applicant shall have satisfactorily completed[~~:~~

~~(a)~~] not less than sixty (60) semester credit hours of study from a college or university accredited by the Southern Association of Colleges and Universities or an accrediting agency recognized by the Southern Association of Colleges and Universities or any successor to the powers of either and is a graduate of an accredited chiropractic college accredited by the Council on Chiropractic Education or their successors, and which maintains a standard and reputability approved by the board[~~; and~~

~~(b) The requirements of KRS 214.615(1)~~].

(2) The board may by ***administrative*** regulation recommend a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by ***administrative*** regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in this section may work with and under the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.

(3) Applications shall be made and signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational advantages, his experience in matters pertaining to knowledge of the care of the sick, his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation. ***No license shall be issued to any person convicted of a felony unless he has been pardoned.***

Section 5. KRS 312.095 is amended to read as follows:

There shall be paid to the executive secretary of the board by each applicant at the time of his application for a license, a fee not to exceed ***three*** [~~two~~] hundred dollars ***($300)*** [~~($200)~~], which shall include the examination fee.

Section 6. KRS 312.135 is amended to read as follows:

Every person licensed to practice chiropractic shall file his license with the county clerk of the county in which he ***practices*** [~~resides~~], before beginning to practice.

Section 7. KRS 312.145 is amended to read as follows:

(1) All licenses issued by the board shall be in such form as the board may ***establish by promulgation of administrative regulations*** [~~prescribe~~]. Before any license is issued by the board, it shall be numbered and properly recorded by the executive secretary. ***The*** [~~Such~~] record shall be open to public inspection, and in all actions or proceedings in any court, a transcript, or any part thereof, certified by the executive secretary under the seal of the board to be a true copy, shall be entitled to admission in evidence.

(2) The board may at any time inquire into the identity of any person claiming to hold a license to practice chiropractic in the state, and after due service of a notice in writing, require him to prove to the satisfaction of the board that he is the person authorized to practice under the license by virtue of which he claims the privilege to practice in this state. When the board finds that a person claiming to be the holder of a license to practice in this state is not in fact the person to whom the license was issued, it shall reduce its findings to writing and file them in its office, and such findings shall be prima facie evidence that ***the*** [~~said~~] claimant does not hold a license to practice in this state.

(3) Ownership or operation of a chiropractic facility within this state constitutes the practice of chiropractic requiring licensure of the owner or operator. A chiropractic facility using an assumed name shall include the name of the owner and facility, and either the word "chiropractic" or "chiropractors."

(4) Chiropractic facilities utilizing chiropractors whose name is not used in the name of the facility shall register annually with the board and provide the name and address of the owner and the name and address of all doctors practicing in the facility. The board shall be notified within ten (10) days of any change. The board may establish by promulgation of administrative regulations an annual registration fee not to exceed two hundred fifty dollars ($250).

Section 8. KRS 312.150 is amended to read as follows:

(1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:

(a) That fraud or deceit was used in securing ***the*** [~~such~~] license;

(b) That the licensee no longer possesses a good moral character;

(c) That the licensee has been convicted of a ***felony or*** violation of any law involving moral turpitude;

(d) That the licensee solicits patients through an agent;

(e) That the licensee is addicted to the use of narcotic drugs or is a chronic alcoholic;

(f) That the licensee is in any way guilty of any deception, misrepresentation, fraud, or unethical conduct in the practice of chiropractic;

(g) That the licensee has violated any of the provisions of this chapter, or any of the ***administrative*** [~~rules and~~] regulations of the board; [~~or~~]

(h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175***; or***

(i) That the licensee failed to provide an itemized statement to the patient immediately upon request.

(2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare, or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

(a) Gross ignorance of, or incompetence in, the practice of chiropractic;

(b) Performing unnecessary services;

(c) Charging a patient an unconscionable fee or charging for services not rendered;

(d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment;

(e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal medicare law;

(f) Advertising that the licensee ***shall*** [~~will~~] accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service of treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given; or

(g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge.

(3) Upon receipt and due consideration of such charges, the board upon an affirmative vote of a majority of its members shall determine whether the nature and quality of the charges are such that further investigation or initiation of formal or informal disciplinary proceedings against the charged licensee is indicated. If the board determines that disciplinary proceedings are appropriate the charges shall be set down for hearing at a future meeting of the board, and the charged licensee shall be notified of this action in writing and shall be furnished a copy of said charges at least twenty (20) days before the date set for the hearing.

(4) ***Except for revocation for nonrenewal,*** no license shall be revoked or suspended without a hearing. The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization and containing allegations that if true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three (3) months.

(5) A written notice stating grounds for possible suspension or revocation of the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the charged licensee not less than twenty (20) days prior to the date of the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested to the address of the licensee last known to the board.

Section 9. KRS 312.163 is amended to read as follows:

(1) In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing adjudges unqualified or whom the board, after a hearing, finds to have performed one or more of the acts described in KRS 312.150:

(a) Revoke the license to practice;

(b) Suspend the license to practice for a period not to exceed three (3) years;

(c) Publicly reprimand or censure the person;

(d) Place the person on probation for a period and upon the terms and conditions that the board may ***establish by promulgation of administrative regulations*** [~~prescribe~~]; and

(e) Require payment of all costs of proceedings resulting in the disciplinary action.

(2) The board may also impose a civil penalty not exceeding ***two*** [~~one~~] thousand dollars ***($2,000)*** [~~($1,000)~~] for each separate violation, the amount of the civil penalty to be fixed so as to deprive the doctor of chiropractic of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding.

(3) A licensee subject to any disciplinary proceeding under this chapter shall be afforded all procedural rights and may appeal any action of the board to the Franklin Circuit Court as set out in KRS 312.160.

Section 10. KRS 312.175 is amended to read as follows:

(1) ***After the effective date of this Act,*** all persons [~~who are now or may hereafter be~~] licensed to practice chiropractic in this state shall, on or before the first day of March, annually hereafter renew his [~~or her~~] license and pay a renewal fee of not more than one hundred dollars ($100) ***for each nonresident licensee and not more than two hundred dollars ($200) for each resident licensee*** each year to the board.[~~; provided that,~~] In addition to the payment of ***the*** [~~such~~] renewal fee, ***the*** [~~such~~] licensee so applying for a license renewal shall furnish to the board satisfactory evidence that he [~~or she~~] has attended an educational program in the year preceding each [~~such~~] application for renewal. Satisfactory evidence of attendance of post graduate study at an institution approved by the board shall be considered equivalent. Any education shall include completion of the course described in KRS 214.610(1). Provided, however, that licenses may be renewed by the board, at its discretion, and the applicant may be excused from paying the renewal fee or attending the annual educational program, or both, in instances where the applicant submits an affidavit to the board evidencing that he [~~or she~~], for good cause assigned, suffered a hardship which prevented the applicant from renewing the license or attending the educational program at the proper time.

(2) The executive secretary of the board shall send a written notice to every person holding a valid license to practice chiropractic within this state at least thirty (30) days prior to the first day of March in each year, directed to the last known address of the licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. The executive secretary shall, within thirty (30) days, notify every person failing to renew his license after it is due that he is delinquent ***and is subject to a late penalty of one hundred dollars ($100). If the licensee fails to renew his license within ninety (90) days after the mailing of the delinquent notice then his license shall be revoked for nonrenewal.*** [~~Failure of any such licensee to renew his license on the next annual renewal date shall constitute sufficient grounds for the board to revoke his license.~~] Any licensee whose license has been revoked for [~~not more than four (4) years for~~] failure to renew his license may have his license restored upon the payment of a restoration fee not to exceed ***two*** [~~one~~] hundred dollars ***($200)*** [~~($100)~~] for each delinquent year or any part thereof in addition to the renewal fee of not more than ***three*** [~~one~~] hundred dollars ***($300)*** [~~($100)~~] and upon presentation of satisfactory evidence of post graduate study of a standard approved by the state board or upon a showing that he is an exception as provided for in subsection (1) of this section. Any licensee whose license has been revoked for more than four (4) years for failure to renew his license may have his license restored after satisfactorily passing the examination as provided in KRS 312.115 and upon payment of the regular application fee.

Section 11. KRS 312.200 is amended to read as follows:

(1) The board shall appoint a peer review committee not to exceed five (5) doctors of chiropractic licensed under this chapter, none of whom are in direct business relationship with the provider, insurer, or patient whose case is being reviewed. Members of the peer review committee shall serve at the pleasure of the board.

(2) Peer review shall occur upon submission by a patient, the patient's representative, insurer, or chiropractor, in accordance with the procedures and fees approved by the board, of an inquiry about a treatment rendered to a patient by a chiropractor. The peer review committee shall examine each inquiry submitted to it and shall report its findings to the board and furnish copies of the findings to the patient, chiropractor, and third-party payor. The findings of the peer review committee on each inquiry reviewed may include a determination of whether or not the chiropractor properly utilized services and rendered or ordered appropriate treatment or services and whether or not the cost of the treatment was unconscionable.

(3) Other persons performing peer review of chiropractic claims, shall be licensed by the board and complete annually a board approved utilization review course, in addition to the required annual education in KRS 312.175. Persons performing review services under this subsection shall annually register with the board and pay a registration fee not to exceed one hundred dollars ($100).

Section 12. The following KRS section is repealed:

312.105 Reciprocity for licensees of other states.

Consent Calendar

HB 827 and **SB 258** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Calendar

SB 301, SB 383, SB 186 and **SB 221** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 56**, by Representative Turner:

Amend printed copy of **SB 56/GA** on page 2, after line 18, by inserting: "***(6) The provisions of this section shall apply to Simpson County.***"

Floor Amendment No. 1 to **SB 313**, by Representative Strong:

Amend printed copy of **SB 313/GA** on page 7, after line 14, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The county clerk shall allow a credit as provided for in subsection (2) of this section against the motor vehicle usage tax required to be collected under KRS 138.460.

(2) An individual registering a motor vehicle as provided under KRS 186.115 shall be entitled to a nonrefundable credit against the motor vehicle usage tax assessed on the motor vehicle being registered. The credit shall be an amount equal to the total amount of Kentucky sales and use taxes paid on the parts used in rebuilding the motor vehicle as shown on the invoices required to be submitted to the county clerk as provided under KRS 186.115.

(3) The credit provided for in subsection (2) of this section shall be allowed only on the initial registration of a motor vehicle under KRS 186.115. The county clerk shall forward a copy of the invoices required by KRS 186.115 to the cabinet.

(4) Any portion of the credit determined to be allowed in error shall become a motor vehicle usage tax assessment against the individual claiming the credit under subsection (2) of this section.

Section 3. KRS 186.115 is amended to read as follows:

(1) When the owner of a motor vehicle which has been assembled from parts from wrecked or salvaged motor vehicles presents ***the*** [~~such~~ ~~a~~] vehicle for registration, he shall submit an affidavit and any invoices showing the purchase of [~~such~~] parts to the county clerk. The county clerk shall forward the application to the Transportation Cabinet. The cabinet will either authorize or prohibit the clerk from registering the vehicle.

(2) The owner of a motor vehicle being registered under subsection (1) of this section who claims the credit provided for in Section 1 of this Act, shall submit an additional copy of all invoices for parts used in rebuilding the motor vehicle on which Kentucky sales and use taxes have been paid. The county clerk shall forward the invoices to the Revenue Cabinet.".

Floor Title Amendment to **SB 313**, by Representative Strong:

Amend printed copy of **SB 313/GA** by changing the title to read "AN ACT relating to revenue and taxation."

Representative Stumbo moved that the rules be suspended for a report of the Committee on Rules. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that the following Consent Bill has been posted for passage in the Regular Orders of the Day for March 25, 1992: **SB 258**.

The Committee on Rules reported **SB 250**, **SB 186**, **SB 221** and **SB 383** have been posted for passage in the Orders of the Day for March 25, 1992.

The Speaker announced the appointment of the following members to serve on a Conference Committee on **HB 468**: Representative Clarke, Chairman; Representatives Rapier, Richards, Worthington and Northup.

Orders of the Day

SB 107, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **SB 107**. Agreed.

Representative Morris moved that **SB 107**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 24, 1992 roll call on **SB 107** - Appendix.)

SB 107, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **SB 107**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 111, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **SB 111**. Agreed.

Representative Donnermeyer moved that **SB 111**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 24, 1992 roll call on **SB 111** - Appendix.)

SB 111, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 111**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment to **SB 18**, by Representative Rapier:

Amend printed copy of **SB 18/GA** by amending the title to read as follows:

"AN ACT relating to higher education."

Floor Amendment No. 1 to **SB 18**, by Representative Rapier:

Amend printed copy of **SB 18/GA** on page 2, after line 19, by adding the following:

"SECTION 2. A NEW SECTION OF KRS 164.740 to 164.770 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to establish a teacher scholarship program to attract and encourage the most academically talented individuals to become certified Kentucky teachers and render teaching service in Kentucky schools.

(2) As used in this section unless the context requires otherwise:

(a) "Critical shortage area" means understaffing of teachers in a particular subject matter, grade level or geographic location, as determined by the authority from any source considered reliable, including, but not limited to, consultation with local and state school officials. The authority shall publish at least annually a list of critical shortage areas and make the list available to applicants and former recipients.

(b) "Eligible program of study" means an undergraduate or graduate program of study which is preparatory to initial teacher certification or recertification in a critical shortage area, which does not lead to a certificate, diploma, or degree in theology, divinity, or religious education.

(c) "Participating institution" means an institution of higher education located in Kentucky, which offers an eligible program of study and has in force an agreement with the authority providing for administration of the teacher scholarship program.

(d) "Qualified teaching service" means teaching the major portion of each school day for at least seventy (70) days each semester in a public school of the Commonwealth or a private school certified pursuant to KRS 156.160(3).

(e) "Semester" means a period of eighteen (18) weeks, which makes up one-half (1/2) of a school year, or one-half (1/2) of a participating institution's academic year.

(3) The Kentucky Higher Education Assistance Authority may, to the extent of appropriations and other funds available to it pursuant to subsection (9), award teacher scholarships to persons eligible under subsection (4), who declare an intention to enter the teaching profession and render qualified teaching service. Each teacher scholarship shall be evidenced by a promissory note which requires repayment or cancellation pursuant to subsection (6) of this section.

(4) Kentucky residents who are enrolled or accepted for enrollment in an eligible program of study on a full-time basis at a participating institution shall be eligible, except for limitations imposed in subsection (6)(b), to apply for teacher scholarships pursuant to this section, if they meet the following criteria:

(a) High school graduates with no college credits shall rank academically in the top ten per cent (10%) of their high school graduating class or score at or above the eightieth percentile (80%) on a test approved by the Council on Higher Education for admission to Kentucky's institutions of higher education;

(b) Certified teachers seeking recertification to teach shall have attained a cumulative grade point average of at least the equivalent of 2.5 on a 4.0 scale during the prior undergraduate studies and agree to pursue appropriate recertification and to render qualified teaching service in a critical shortage area upon completion of the recertification program;

(c) Applicants with earned college credits shall have attained at least the equivalent of a 2.5 grade point average on a 4.0 scale for all undergraduate work; or

(d) If an applicant has previously earned graduate level credits, notwithstanding paragraphs (b) and (c), the applicant shall have attained at least the equivalent of a 3.0 grade point average on a 4.0 scale for all graduate work, and the cumulative grade point average for undergraduate studies may be disregarded.

(5) The Kentucky Higher Education Assistance Authority shall establish, by administrative regulation, the maximum annual amount of scholarship to be awarded under this section, provided that the aggregate amount of scholarships awarded to an individual, including amounts received from teacher scholarship programs previously authorized by the General Assembly, shall not exceed twenty thousand dollars ($20,000). The amount of each scholarship to be awarded shall not exceed the applicant's total cost of education minus other financial assistance received or expected to be received by the applicant during the academic period.

(6) (a) The Kentucky Higher Education Assistance Authority shall award teacher scholarships only to eligible persons who agree to render qualified teaching service as certified teachers.

(b) No teacher scholarship shall be awarded and no promissory note cancellation shall be granted to any person who is in default on any obligation to the authority under any program administered by the authority pursuant to KRS 164.740 to 164.785 until financial obligations to the authority are satisfied, except that ineligibility for this reason may be waived by the authority for cause.

(c) Recipients shall render one (1) semester of qualified teaching service for each semester of scholarship received, except that recipients who teach in a critical shortage area designated by the authority shall render one (1) semester of qualified teaching service as repayment for two (2) semesters of scholarships received. Upon completion of each semester of qualified teaching service, the authority shall cancel the appropriate number of promissory notes.

(d) If the recipient of a teacher scholarship fails to complete an eligible program of study at a participating institution or fails to render qualified teaching service in any semester following certification or recertification, unless the failure is temporarily waived for cause by the authority, the recipient shall immediately become liable to the authority for repayment of the sum of all outstanding promissory notes and accrued interest. Persons liable to repayment of a scholarship under this paragraph shall be liable for interest accruing from the date on which the teacher scholarship was disbursed.

(e) Recipients who have outstanding loans or scholarships under teacher scholarship programs previously authorized by the General Assembly, who render qualified teaching service, shall have their notes canceled in accordance with subsection (6)(c).

(f) The authority shall establish, by administrative regulation, the terms and conditions for the award, cancellation, and repayment of teacher scholarships including, but not limited to, the selection criteria, amount of scholarship payments, deferments, the rate of repayment, and the interest rate.

(g) Notwithstanding any other statute to the contrary, the maximum interest rate applicable to repayment of a promissory note under this section shall be twelve percent (12%) per annum. If a judgment is rendered to recover payment, the judgment shall bear interest at a rate of five percent (5%) greater than the rate actually charged on the promissory note.

(7) A repayment obligation shall not be voided by reason of the age of the recipient at the time of receiving the teacher scholarship.

(8) Failure to meet repayment obligations shall be cause for the revocation of a person's teaching certificate, subject to the procedures set forth in KRS 161.120.

(9) All moneys repaid to the authority pursuant to this section shall be added to the appropriations made for purposes of this section, and the funds and unobligated appropriation shall not lapse.

(10) The authority may execute appropriate contracts and promissory notes for administering this section.

(11) If available funds are insufficient for all requested scholarships for eligible applicants during any fiscal year, the authority shall give priority consideration to eligible applicants who previously received teacher scholarships. If funds are insufficient to make all requested renewal scholarships to eligible applicants, the authority shall reduce all scholarship awards to the extent necessary to provide scholarships to all qualified renewal applicants. If, after awarding all eligible renewal applicants, funds are not depleted, initial applications shall be ranked according to regulatory selection criteria and awards made to the most highly qualified applicants until funds are depleted.

Section 3. The following KRS sections are repealed:

164.768 Legislative intent — Student loans for specified majors.

164.770 Legislative intent — Student loans for teacher education.

Floor Title Amendment to **SB 270**, by Representative Hourigan:

Amend printed copy of **SB 270/GA** on page 1, by amending the title to read "AN ACT relating to fees."

Floor Amendment No. 1 to **SB 270**, by Representative Hourigan:

Amend printed copy of **SB 270/GA** on page 6, line 10, by adding thereafter:

"Section 2. KRS 150.603 is amended to read as follows:

(1) Any person required to possess a hunting license under the provisions of KRS 150.170, except residents sixty-five (65) years of age or older and children under sixteen (16) years of age, taking or attempting to take wild ducks or geese within the state shall, in addition to the appropriate hunting license for taking game, possess a Kentucky waterfowl stamp. ***The*** [~~Said~~] stamp shall not be transferable, shall be signed across

the face by the bearer, and fixed adhesively to the back of the regular hunting license of the bearer, and shall be carried at all times upon the person while hunting wild ducks or geese. ***The*** [~~Such~~] stamp shall be obtained for the sum of five dollars and twenty-five cents ($5.25) and shall be valid for the period of one (1) year. Notwithstanding KRS 64.012, the county clerk shall retain ***nine percent (9%) of the fee*** [~~twenty-five cents (25)~~] for administrative purposes.

(2) The Fish and Wildlife Commission shall determine the form of the stamp and shall administer all revenues generated by the sale of the stamp. ***The*** [~~Said~~] revenue shall be expended for waterfowl research projects for the purpose of protecting and propagating migratory waterfowl and for the development, restoration, maintenance, and preservation of wetlands within the state. The intent of this section is to expand waterfowl research and management and increase waterfowl populations in the state without detracting from other programs. The expenditures of funds generated under the provisions of this section shall be included in the annual report provided for in KRS 150.061.

Section 3. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$ 5.00
Exceeding three pages, for each page	1.50
Copy and certification of same when ordered	3.50
Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of deed	3.50
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of real estate mortgage	3.50
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	2.50

Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00
Each additional marginal notation relating to same instrument	2.50
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	10.00
Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	14.00
For filing and indexing an original or continuation financing statement, and noting the security interest on the required receipt for one motor vehicle	6.00
For filing and indexing an assignment of a financing statement	6.00
For filing and noting a statement of release of collateral under a financing statement	1.00
Issuance of a certification as provided in KRS 355.9-407	3.50
Certified copy of financing statement or statement of assignment as provided in KRS 355.9-407	3.50
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	2.50
Filing or recording of certification of intention to operate a business under an assumed name	5.00

Filing a lien on a delinquent motor vehicle or trailer bill	6.00
Releasing a lien on a delinquent motor vehicle or trailer bill	1.50
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00
Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00
Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for office	20.00
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	***9% of the cost*** [~~.75~~]
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges)	5.00

Exceeding three pages, each additional page	1.50
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, each additional page	1.50
Filing certification required by KRS 65.070(1)(a)	2.00
Certification of franchise tax assessment	2.50".

Floor Amendment No. 1 to the Committee Substitute to **SB 250**, by Representative Sheehan:

Amend printed copy of **SB 250/HCS** on page 19, by deleting lines 25 and 26, and on page 20, by deleting lines 1 and 2.

On page 20, line 26, after the word "treating", by inserting the following; "***, including administering drugs to,***".

Floor Amendment No. 3 to the House Committee Substitute to **SB 28**, by Representative Zimmerman:

Amend printed copy of **SB 28/HCS** on page 1, line 8, by inserting after "***county***" the following:

"***as provided for in this section and KRS 67.083***".

Orders of the Day (Continued)

SB 114, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved the adoption of Committee Amendment No. 3 to **SB 114**. Agreed.

Representative Morris moved the adoption of Committee Amendment No. 2 to **SB 114**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 2 to **SB 114**. Agreed.

Representative Lewis moved the adoption of Floor Amendment No. 1 to **SB 114**. Rejected.

Representative Jones moved that **SB 114**, as amended, be passed.

Representative Allen moved the adoption of Floor Amendment No. 4 to **SB 114**. Rejected.

On the roll call on the passage of **SB 114**, as amended, the vote was: Yeas 55, Nays 31. (See March 24, 1992 roll call on **SB 114** - Appendix.)

SB 114, as amended, was passed and the title agreed to.

Representative Jones moved that the vote by which **SB 114**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 112, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **SB 112**.

On the roll call the vote was yeas 62—Ackerson, Ark, Arnold, Ballard, Barrows, Blandford, Bowling, Brown, Burch, Butler, Callahan, Casebier, L. Clark, P. Clark, Coleman, Crupper, Curd, Deskins, Donnermeyer, Farrow, Ford, Gee, Gregory, Hancock, J. Harper, K. Harper, Hatcher, Heleringer, Jones, Kerr, Lear, LeMaster, Lile, Long, Mack, Maggard, Mason, McElroy, Moberly, Napier, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Ravenscraft, Richards, Ridley, Riggs, Riner, Scorsone, Sheehan, B. Smith, Stumbo, Turner, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 9—Allen, Bruce, Freibert, Keith, Little, Morris, Reinhardt, Todd, Walker.

Floor Amendment No. 1 to **SB 112** was adopted.

Representative Moberly moved that **SB 112**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See March 24, 1992 roll call on **SB 112** - Appendix.)

SB 112, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **SB 112**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 192, with Floor Amendment and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved that **SB 192** be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See March 24, 1992 roll call on **SB 192** - Appendix.)

SB 192 was passed and the title agreed to.

Representative Callahan moved that the vote by which **SB 192** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Title Amendment No. 2 to **SB 192**, by Representative Gedling:

Amend printed copy of **SB 192/GA** on page 1, by amending the title to read "AN ACT relating to local government.".

Floor Amendment No. 2 to **SB 192**, by Representative Gedling:

Amend printed copy of **SB 192/GA** on page 4, line 5, by adding thereafter the following:

"Section 7. KRS 67.130 is amended to read as follows:

(1) For the purposes of this section, in an urban-county or a charter county, fiscal court shall be read "primary legislative body", and county judge/executive shall be read as "chief executive officer" of the urban-county or charter county.

(2) The fiscal court of each county shall be responsible for the maintenance and operation of all county buildings, grounds, and other properties. ***The fiscal court shall have authority superior to that of any other agency or employee in the furnishing, decoration, arrangement, upkeep, and regulation of county buildings, grounds, and other properties.*** The county judge/executive shall execute the policies of the fiscal court relating to buildings, grounds, and other properties. The county judge/executive, with the approval of the fiscal court, may employ the jailer as superintendent of such county buildings, grounds, and other properties at the county seat as he deems appropriate. The fiscal court of each county shall annually appropriate a sum sufficient to purchase the labor and materials necessary to maintain and operate county property, including the jailer's residence if owned by the county, and to keep the jailer's residence in repair and in clean, comfortable and presentable condition. Any sum appropriated for maintenance and operation of the jailer's residence shall be expended by the jailer. The county attorney shall bring civil action in the name of the county to recover possession of or for injury to or intrusion or trespass upon any such county property, and the net proceeds of any such recovery shall be paid into the county treasury.".

Floor Amendment No. 1 to **SB 420**, by Representative Barrows:

Amend printed copy of **SB 420/GA** on page 2, line 2 by inserting the following before the semi-colon: "***. The implementation of the primary program may take into consideration the necessary arrangements required for students attending part-time***".

Floor Amendment No. 1 to **SB 60**, by Representative Richardson:

Amend printed copy of **SB 60/GA** on page 2, line 16, by adding thereafter the following:

"Section 2. KRS 61.555 is amended to read as follows:

(1) Any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of service in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he is reemployed within two (2) years after discharge, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) Any member of the system who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who was or is reemployed within two (2) years after his honorable discharge therefrom, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of service in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years service while on military duty during this period, shall have that portion of his service, necessary to the completion of eight (8) years current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with ***the*** [~~such~~] service under subsections (1) to (3) of this section ***if*** [~~provided~~] he pays thirty-five percent (35%) of the cost of ***the*** [~~such~~] service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in subsection (4) of KRS 61.560,

and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for ***the*** [~~such~~] purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the board shall not accept employee payments until ***the*** [~~such~~] time [~~as~~] funds are available in the account.

(5) A member eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for military service as provided under subsection (4) of this section without payment of the current employee contribution ratio if ***the*** [~~such~~] member was taken prisoner by a hostile power at any time during active military service.

(6) Any member age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any other member who has sixty (60) months of service, at least twelve (12) of which are current service, [~~(~~]or his beneficiary if the member dies prior to retirement,[~~)~~] shall receive current service for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with ***the*** [~~such~~] service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be by lump sum, except that members may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for. The delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for ***the*** [~~such~~] pension in the future.[~~, provided that~~] Nothing in this section shall prohibit ***the*** [~~such~~] purchase of credit ***if*** [~~where~~] the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or ***if*** [~~where~~] the military pension is a disability pension or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any member of the Kentucky Employees Retirement System age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or any member of the Kentucky Employees Retirement System or the State Police Retirement System who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system a delayed contribution payment as defined in subsection (22) of KRS 61.510. Payment shall be made by the same methods set forth in subsection (6) of this section, and the delayed contribution payment shall not be picked up, as described in subsection (4) of KRS 61.560, by the employer and shall be deposited in the individual member's account.

Section 3. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive credit for active service rendered in the Armed Forces of the United States, ***or service in the military reserves of the United States or the National Guard*** subject to regulations established by the board of trustees. Military service may be credited only if discharge was other than dishonorable, ***but purchase of military reserve or National Guard service may be made prior to discharge***. Service shall be considered as Kentucky teaching service, except that it may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). A maximum of six (6) years of military service may be credited, but [~~in no case~~] a greater number of years ***shall not be credited*** than the actual years of contributing service in Kentucky. ***A member may purchase one (1) month of service for each six (6) months of service in the military reserves or the National Guard.***

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) A member receiving retirement credit for active duty in the armed services of the United States ***or service in the military reserves or the National Guard*** shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service so credited. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the survivor, death, and medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services ***or service in the military reserves or the National Guard,*** the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service."

Floor Amendment No. 2 to **SB 60**, by Representative Morris:

Amend printed copy of **SB 60/GA** on page 2, line 16, by adding thereafter the following:

"Section 2. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase of military service credit pursuant to subsection (2) of this section, or by transfer of credit as provided in subsection (6) of this section.

(2) (a) Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the legislators' retirement plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the armed forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system fifty percent (50%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. ***The member may also receive one (1) month of service credit for each six (6) months of service in the National Guard or the military reserves of the United States by paying the retirement system fifty percent (50%) of the actuarial cost. The member shall not purchase more than four (4) years of service credit for service in the National Guard or the military reserves, or by combining active duty service and service in the National Guard or military reserves.*** The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the legislators' retirement plan, to other service credit earned in the plan.

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked-up by the employer pursuant to KRS 6.505(2).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the armed forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (2) of this section.

(6) A member who has qualified for benefits pursuant to KRS 6.525(1) may, until July 1, 1991, transfer to the legislators' retirement plan up to ten (10) years of service credit which he has earned in the County Employees' Retirement System. If the member elects to transfer his County Employees' Retirement System service credit, that system shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the County Employees' Retirement System in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred by the County Employees' Retirement System and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan."

Floor Amendment No. 1 to the House Committee Substitute to **SB 221**, by Representative Jensen:

Amend printed copy of **SB 221/HCS** on page 14, line 18, after "*(2)*" by deleting the remainder of the line; and

On page 14, by deleting lines 19 to 26 in their entirety; and

On page 15, by deleting lines 1 to 15 in their entirety; and

On page 15, line 16, by deleting "*(3)*".

Orders of the Day (Continued)

SB 3, with Floor Amendments and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of Floor Amendment No. 1 to **SB 3**. Agreed.

Representative Donnermeyer moved that **SB 3**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 8. (See March 24, 1992 roll call on **SB 3** - Appendix.)

SB 3, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 3**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 145 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **SB 145** be passed.

On the roll call the vote was: Yeas 86, Nays 2. (See March 24, 1992 roll call on **SB 145** - Appendix.)

SB 145 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **SB 145** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 202, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **SB 202** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 24, 1992 roll call on **SB 202** - Appendix.)

SB 202 was passed and the title agreed to.

Representative Bowling moved that the vote by which **SB 202** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 314, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute to **SB 314**. Agreed.

Representative Lear moved that **SB 314**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 70, Nays 19. (See March 24, 1992 roll call on **SB 314** - Appendix.)

SB 314, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 314**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

A Conference Committee Report was filed on **HB 468**.

SB 315, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute to **SB 315**. Agreed.

Representative Lear moved that **SB 315**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 48, Nays 38. (See March 24, 1992 roll call on **SB 315** - Appendix.)

SB 315, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 315**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 316, with Committee Substitute, Title Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute to **SB 316**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 316**. Agreed.

Representative Lear moved that **SB 316**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 6. (See March 24, 1992 roll call on **SB 316** - Appendix.)

SB 316, by way of Committee Substitute as amended, was passed.

Representative Lear moved the adoption of the Committee Title Amendment to the Committee Substitute to **SB 316**. Agreed; and the title was agreed to.

Representatives Lear moved that the vote by which **SB 316**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 215 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 215** be passed.

On the roll call the vote was: Yeas 82, Nays 9. (See March 24, 1992 roll call on **SB 215** - Appendix.)

SB 215 was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 215** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 313 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **SB 313** be passed.

On the roll call the vote was: Yeas 87, Nays 2. (See March 24, 1992 roll call on **SB 313** - Appendix.)

SB 313 was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 313** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 6 to **SB 269**, by Representative Arnold:

Amend printed copy of **SB 269/GA** on page 4, line 17, by adding thereafter,

"SECTION 6. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The primary legislative body of each county may enact an ordinance creating a deputy sheriff merit board, which shall be charged with the duty of holding hearings, public and executive, in disciplinary matters concerning deputy sheriffs. For the purpose of Sections 6 to 10 of this Act, the primary legislative body of each county that does not have an urban-county or charter county government shall be the fiscal court.

(2) The reasonable and necessary expenses of the board, including the funds necessary to retain an attorney to advise the board on legal matters, shall be paid out of the fees and commissions collected by the sheriff. If the fees and commissions are not sufficient to pay the expenses of the board and the other expenses authorized by statute to be paid from these fees and commissions, the sheriff may negotiate with the primary legislative body to determine a method of paying all or part of the expenses of the board.

(3) The board shall consist of five (5) members, two (2) members appointed by the county judge/executive or the chief executive officer of an urban-county government with approval by the primary legislative body, two (2) members appointed by the county sheriff, and one (1) member elected by the deputy sheriffs of the county. Each board appointee shall be at least thirty (30) years of age and a resident of the county. No person shall serve on the board who is a deputy sheriff or who holds any elected public office. No person shall be appointed to the board who is a member of the immediate family of the sheriff of the county served by the board. The members of the board shall not receive a salary but shall receive reimbursement for necessary expenses.

(4) All appointments shall be for two (2) years, and any vacancies shall be filled by the sheriff or county judge/executive, or chief executive officer of an urban-county government, responsible for the appointment of the departing board member.

(5) The board shall elect a chairman from its membership and keep an accurate record of its proceedings.

(6) The board shall meet when a disciplinary matter concerning a deputy sheriff is brought to its attention or at other times at the discretion of the board, upon notification of its members.

(7) Three (3) members shall constitute a quorum in all matters which may come before the board.

(8) For the purpose of this section, "member of the immediate family" means a person's father, mother, brother, sister, spouse, son, daughter, aunt, uncle, son-in-law, or daughter-in-law.

SECTION 7. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Each person serving as a deputy sheriff on the effective date of an ordinance that creates a deputy sheriff merit board for the county in which he serves shall, within one (1) year following the effective date of that ordinance, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(2) Each person appointed as a deputy sheriff in a county that has adopted a deputy sheriff merit board before the date of his appointment shall, within one (1) year following the appointment, successfully complete at least four hundred (400) hours of training approved by the Kentucky Law Enforcement Council.

(3) A person failing to meet the requirements of this section shall forfeit his position as deputy sheriff immediately upon the expiration of the applicable one (1) year time limit.

SECTION 8. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall directly or indirectly solicit, receive, or be in any manner concerned in receiving, soliciting, or publicizing any assessment, gift, subscription or contribution to or for any political party or candidate for public office.

(2) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall be suspended, laid off, demoted, promoted, disciplined, threatened or in any way changed in duty or compensation for withholding or neglecting to pay or make contributions of any sort, either in money, goods, services, or anything of value for any political purpose. Nothing in this subsection shall limit the power of a sheriff to revoke the appointment of a deputy during the probationary period described in subsection (5) of this section.

(3) No deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall be a candidate for any public office. Any person who violates this subsection shall forfeit his position as deputy sheriff.

(4) Nothing contained in this section shall be construed to abridge the rights of any deputy sheriff with respect to his personal opinions, beliefs, or right to vote.

(5) A deputy sheriff's employment shall be probationary during the first year of service. A sheriff may, at his pleasure, revoke the appointment of a deputy who works for him at any time within one (1) year following the appointment.

SECTION 9. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) Any deputy sheriff may be removed, suspended, or laid off by the sheriff for any cause which will promote the efficiency of the department. Except when an appointment is revoked during the probationary period described in subsection (5) of Section 8 of this Act, the sheriff shall furnish the deputy with a written statement of the reason why the action was taken.

(2) Except for the revocation of an appointment pursuant to subsection (5) of Section 8 of this Act, every action in the nature of a dismissal, suspension, or reduction made by the sheriff shall be subject to review by the board at the request of any deputy sheriff affected by the provisions of Sections 6 to 10 of this Act.

(3) Any citizen who makes written charges of misconduct, under oath, concerning the actions of any deputy sheriff covered by the provisions of Sections 6 to 10 of this Act shall present the charges to the sheriff, who shall investigate the charges. The sheriff shall determine what action, if any, shall be taken against the deputy, subject to the limitations set out in Sections 6 to 10 of this Act. The citizen may appeal the determination of the sheriff to the board.

SECTION 10. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

(1) The board may remove, suspend, lay off or discipline any deputy sheriff covered by the provisions of Sections 6 to 10 of this Act on written charges of misconduct preferred on its own initiative or the initiative of any citizen, but only after reasonable notice to the accused and after a complete public hearing at which the deputy accused shall have the right to be present, represented by counsel, and confronted by all of the witnesses preferring charges against him.

(2) Procedural due process shall be afforded to all deputy sheriffs by the board. The board shall notify the deputy promptly and in writing of any charges brought against him by the board or by a citizen. The board shall have the power to issue subpoenas and to compel the attendance of witnesses, and shall conduct the hearing, as far as possible, within the Kentucky Rules of Civil Procedure. Any deputy who is not given a hearing within sixty (60) days of any charge being preferred shall be reinstated in full.

(3) After a full public hearing by the board, the board shall retire into executive session to discuss the evidence introduced at the hearing and to make its determination and conclusion. The board in executive session shall not receive any further evidence or communication from any source, except for legal advice from the board's counsel, prior to reaching its determination and conclusion.

(4) When an appointment is revoked during the probationary period described in subsection (5) of Section 8 of this Act, the action of the sheriff shall be final. In all other disciplinary matters, the action of the sheriff or the board shall be final, except that any aggrieved person may, within thirty (30) days after the decision is rendered, appeal to the Circuit Court of the county in which the board meets. The board shall be named as respondent, and the county attorney shall represent the board before the court. The appeal taken to the Circuit Court shall be a review of record by the court.

(5) The provisions of Sections 6 to 10 of this Act shall not apply to any nonsworn employee appointed by the sheriff pursuant to KRS 70.030 or to any special deputy appointed by the sheriff pursuant to KRS 70.045.

Section 11. KRS 70.030 is amended to read as follows:

(1) The sheriff may appoint his own deputies, and may revoke the appointment at his pleasure *except where that revocation is prohibited by the provisions of Sections 6 to 10 of this Act*. Before any deputy executes the duties of his office, he shall take the oath required to be taken by the sheriff.

(2) The sheriff may appoint nonsworn clerical, technical, professional, and support personnel to assist him in the performance of the duties of his office. All nonsworn personnel shall serve at the pleasure of the sheriff.

(3) No sheriff whose county has adopted a deputy sheriff merit board under Section 6 of this Act shall appoint a deputy who is a member of the immediate family of the sheriff. The term ''member of the immediate family'' has the meaning given in Section 6 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 70 IS CREATED TO READ AS FOLLOWS:

Funds in the Kentucky Law Enforcement Foundation Program Fund may be utilized by the Department of Criminal Justice Training to reimburse counties, urban-counties, or charter counties with sheriffs' departments of five (5) or fewer officers for the cost of the base salary for each regular, full-time officer while the officer is obtaining the training required in Section 7 of this Act. The county, urban-county, or charter county shall show to the satisfaction of the Department of Criminal Justice Training that it will be placed in a situation of undue hardship if the funding is not provided. The secretary of the Justice Cabinet shall promulgate administrative regulations upon the recommendation of the Kentucky Law Enforcement Council to define what constitutes "undue financial hardship" and to otherwise implement this section."

Floor Amendment No. 3 to **SB 308**, by Representative Barrows:

Amend printed copy of **SB 308/GA** on page 14, by adding the following after line 1:

"Section 10. KRS 5.236 is amended to read as follows:

The Thirty-sixth Representative District shall consist of the following territory:

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
GARRARD	A101		BOONES CREEK			
GARRARD	A102		SUGAR CK			
GARRARD	B101		GILBERTS CK			
GARRARD	***B102***		***ELKIN***	***9703***	***101***	***0201***
GARRARD	***B102***		***ELKIN***	***9703***	***102***	
GARRARD	***B102***		***ELKIN***	***9703***	***103***	
GARRARD	***B102***		***ELKIN***	***9703***	***104***	
GARRARD	***B102***		***ELKIN***	***9703***	***105B***	
GARRARD	***B102***		***ELKIN***	***9703***	***106B***	
GARRARD	***B102***		***ELKIN***	***9703***	***106C***	
GARRARD	***B102***		***ELKIN***	***9703***	***113***	
GARRARD	***B102***		***ELKIN***	***9703***	***114***	
GARRARD	***B102***		***ELKIN***	***9703***	***115***	
GARRARD	***B102***		***ELKIN***	***9703***	***116***	
GARRARD	***B102***		***ELKIN***	***9703***	***117***	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
GARRARD	***B102***		***ELKIN***	***9703***	***118***	
GARRARD	***B102***		***ELKIN***	***9703***	***119***	
GARRARD	***B102***		***ELKIN***	***9703***	***120***	
GARRARD	***B102***		***ELKIN***	***9703***	***121***	
GARRARD	***B102***		***ELKIN***	***9703***	***122***	
GARRARD	***B102***		***ELKIN***	***9703***	***123***	
GARRARD	***B102***		***ELKIN***	***9703***	***124***	
GARRARD	***B102***		***ELKIN***	***9703***	***204B***	
GARRARD	***B102***		***ELKIN***	***9703***	***206***	
GARRARD	***B102***		***ELKIN***	***9703***	***207***	
GARRARD	***B102***		***ELKIN***	***9703***	***208***	
GARRARD	***B102***		***ELKIN***	***9703***	***209***	
GARRARD	***B102***		***ELKIN***	***9704***	***136***	***0201***
GARRARD	***B102***		***ELKIN***	***9704***	***137***	
GARRARD	***B102***		***ELKIN***	***9704***	***138***	***0202***
GARRARD	***B102***		***ELKIN***	***9704***	***139***	
GARRARD	***B102***		***ELKIN***	***9704***	***140***	***0201***
GARRARD	***B102***		***ELKIN***	***9704***	***199***	
GARRARD	D101		BUCKEYE			
GARRARD	D102		WALKER			
GARRARD	D103		POOR HOUSE			
GARRARD	E101		PAINT LICK			
GARRARD	E102		LAWSON			
GARRARD	E103		CARTERSVILLE			

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
JACKSON	C101		COYLE #1			
JACKSON	C102		COYLE #2			
JACKSON	C103		COYLE #3			
JACKSON	C104		COYLE # 4			
LINCOLN	B101		CRAB ORCHARD #1	9804	130	
LINCOLN	B101		CRAB ORCHARD #1	9804	131	
LINCOLN	B101		CRAB ORCHARD #1	9804	132	
LINCOLN	B101		CRAB ORCHARD #1	9804	133	
LINCOLN	B101		CRAB ORCHARD #1	9804	134	
LINCOLN	B101		CRAB ORCHARD #1	9804	135	
LINCOLN	B101		CRAB ORCHARD #1	9804	136	
LINCOLN	B101		CRAB ORCHARD #1	9804	137	
LINCOLN	B101		CRAB ORCHARD #1	9804	145	
LINCOLN	B101		CRAB ORCHARD #1	9804	146	
LINCOLN	B101		CRAB ORCHARD #1	9804	147	
LINCOLN	B101		CRAB ORCHARD #1	9804	148	
LINCOLN	B101		CRAB ORCHARD #1	9804	149	
LINCOLN	B101		CRAB ORCHARD #1	9804	150	
LINCOLN	B101		CRAB ORCHARD #1	9804	151	
LINCOLN	B101		CRAB ORCHARD #1	9804	152	
LINCOLN	B101		CRAB ORCHARD #1	9804	153	
LINCOLN	B101		CRAB ORCHARD #1	9804	154	
LINCOLN	B101		CRAB ORCHARD #1	9804	243A	
LINCOLN	B101		CRAB ORCHARD #1	9804	243B	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
LINCOLN	B101		CRAB ORCHARD #1	9804	244	
LINCOLN	B101		CRAB ORCHARD #1	9804	245	
LINCOLN	B101		CRAB ORCHARD #1	9804	246	
LINCOLN	B101		CRAB ORCHARD #1	9804	247	
LINCOLN	B101		CRAB ORCHARD #1	9804	248	
LINCOLN	B101		CRAB ORCHARD #1	9804	249	
LINCOLN	B101		CRAB ORCHARD #1	9804	250	
LINCOLN	B101		CRAB ORCHARD #1	9804	251	
LINCOLN	B101		CRAB ORCHARD #1	9804	252	
LINCOLN	B101		CRAB ORCHARD #1	9804	253	
LINCOLN	B101		CRAB ORCHARD #1	9804	254	
LINCOLN	B101		CRAB ORCHARD #1	9804	255	
LINCOLN	B101		CRAB ORCHARD #1	9804	256	
LINCOLN	B101		CRAB ORCHARD #1	9804	257	
LINCOLN	B103		BROUGHTENTOWN	9804	301	
LINCOLN	B103		BROUGHTENTOWN	9804	302	
LINCOLN	B103		BROUGHTENTOWN	9804	310	
LINCOLN	B103		BROUGHTENTOWN	9804	311	
LINCOLN	B103		BROUGHTENTOWN	9804	312	
LINCOLN	B103		BROUGHTENTOWN	9804	313	
LINCOLN	B103		BROUGHTENTOWN	9804	314	
LINCOLN	B103		BROUGHTENTOWN	9804	315	
LINCOLN	B103		BROUGHTENTOWN	9804	316	
LINCOLN	B103		BROUGHTENTOWN	9804	317	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
LINCOLN	B103		BROUGHTENTOWN	9804	318	
LINCOLN	B103		BROUGHTENTOWN	9804	319	
LINCOLN	B103		BROUGHTENTOWN	9804	320	
LINCOLN	B103		BROUGHTENTOWN	9804	321	
LINCOLN	B103		BROUGHTENTOWN	9804	322	
LINCOLN	B103		BROUGHTENTOWN	9804	323	
LINCOLN	B103		BROUGHTENTOWN	9804	324	
LINCOLN	B103		BROUGHTENTOWN	9804	325	
LINCOLN	B103		BROUGHTENTOWN	9804	340	
LINCOLN	B103		BROUGHTENTOWN	9804	343	
LINCOLN	B103		BROUGHTENTOWN	9804	344	
LINCOLN	B103		BROUGHTENTOWN	9804	345	
LINCOLN	B103		BROUGHTENTOWN	9804	346	
LINCOLN	B103		BROUGHTENTOWN	9804	347	
MADISON	A101		BLUE LICK			
MADISON	A102		EAST BEREA			
MADISON	A103		GAY-STEPHENS			
MADISON	A104		NORTH BEREA			
MADISON	A105		SOUTH BEREA			
MADISON	A106		WEST BEREA			
MADISON	A107		CLAY			
MADISON	A109		BIG HILL			
MADISON	B105		CHENAULT	0101	113	
MADISON	B105		CHENAULT	0101	114	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
MADISON	B105		CHENAULT	0101	115	
MADISON	B105		CHENAULT	0101	116	
MADISON	B105		CHENAULT	0101	117	
MADISON	B105		CHENAULT	0101	123	
MADISON	B105		CHENAULT	0101	124	
MADISON	B105		CHENAULT	0101	125	
MADISON	B105		CHENAULT	0101	126	
MADISON	B105		CHENAULT	0101	127	
MADISON	B105		CHENAULT	0101	128	
MADISON	B105		CHENAULT	0101	129	
MADISON	B105		CHENAULT	0101	130	
MADISON	B105		CHENAULT	0101	199	0201
MADISON	B105		CHENAULT	0101	222	
MADISON	B105		CHENAULT	0101	224	
MADISON	B105		CHENAULT	0101	229	
MADISON	B105		CHENAULT	0101	231	
MADISON	B105		CHENAULT	0108	101	
MADISON	B105		CHENAULT	0108	102	0202
MADISON	B105		CHENAULT	0108	103	0202
MADISON	B105		CHENAULT	0108	104	0202
MADISON	B105		CHENAULT	0108	105	
MADISON	B105		CHENAULT	0108	106	
MADISON	B105		CHENAULT	0108	107	
MADISON	B105		CHENAULT	0108	108	0202

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
MADISON	B105		CHENAULT	0108	118	0201
MADISON	B105		CHENAULT	0108	119	
MADISON	B105		CHENAULT	0108	120	0202
MADISON	B105		CHENAULT	0108	148	0202
MADISON	B105		CHENAULT	0108	150	
MADISON	B105		CHENAULT	0108	151	
MADISON	B106		WHITE HALL-DANIEL B			
MADISON	B107		BURNAM-HIGH POINT			
MADISON	B108		TEVIS-COTTONBURG			
MADISON	B110		POOSEY			
MADISON	B111		NEWBY-JONES			
MADISON	B112		VALLEY VIEW			
MADISON	C105		RED HOUSE			
MADISON	D104		BRASSFIELD-BEARWALL			
MADISON	D106		BOBTOWN-RED LICK			
PULASKI	B108		EUBANK			
PULASKI	C101		ESTESBURG			
PULASKI	C102		GOODHOPE			

Section 11. KRS 5.239 is amended to read as follows:

The Thirty-ninth Representative District shall consist of the following territory:

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
[~~GARRARD~~	~~B102~~		~~ELKIN~~]			
GARRARD	***B102***		***ELKIN***	***9703***	***210***	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
GARRARD	*B102*		*ELKIN*	*9703*	*211*	
GARRARD	*B102*		*ELKIN*	*9703*	*212*	
GARRARD	*B102*		*ELKIN*	*9703*	*213*	
GARRARD	*B102*		*ELKIN*	*9703*	*214*	
GARRARD	*B102*		*ELKIN*	*9703*	*215*	
GARRARD	*B102*		*ELKIN*	*9703*	*216*	
GARRARD	*B102*		*ELKIN*	*9703*	*217*	
GARRARD	*B102*		*ELKIN*	*9703*	*218*	
GARRARD	*B102*		*ELKIN*	*9703*	*219*	
GARRARD	*B102*		*ELKIN*	*9703*	*220*	
GARRARD	*B102*		*ELKIN*	*9703*	*221*	
GARRARD	*B102*		*ELKIN*	*9703*	*299*	
GARRARD	*B102*		*ELKIN*	*9703*	*306B*	
GARRARD	*B102*		*ELKIN*	*9703*	*317*	
GARRARD	*B102*		*ELKIN*	*9703*	*318*	
GARRARD	*B102*		*ELKIN*	*9703*	*319*	
GARRARD	*B102*		*ELKIN*	*9703*	*399*	
GARRARD	*B102*		*ELKIN*	*9704*	*141*	
GARRARD	*B102*		*ELKIN*	*9704*	*142*	
GARRARD	*B102*		*ELKIN*	*9704*	*143*	
GARRARD	C101		MARKSBURY			
GARRARD	C102		BRYANTSVILLE			
GARRARD	C103		BUENA VISTA			
GARRARD	C104		BOURNE			

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
JESSAMINE	A101		EAST NICHOLASVILLE			
JESSAMINE	A102		EAST NICHOLASVILLE			
JESSAMINE	A103		WEST NICHOLASVILLE			
JESSAMINE	A104		WEST NICHOLASVILLE			
JESSAMINE	A105		S E NICHOLASVILLE #			
JESSAMINE	A106		S W NICHOLASVILLE #			
JESSAMINE	A107		S W NICHOLASVILLE #			
JESSAMINE	A108		S W NICHOLASVILLE #			
JESSAMINE	A109		S E NICHOLASVILLE #			
JESSAMINE	B101	0201	MARBLE CREEK #1 7A			
JESSAMINE	B101	0202	MARBLE CREEK #1 7A			
JESSAMINE	B102		MARBLE CREEK #2 7B			
JESSAMINE	B103	0201	MARBLE CREEK #3 7C			
JESSAMINE	B103	0202	MARBLE CREEK #3 7C			
JESSAMINE	C101		SUPHER WELL 8			
JESSAMINE	C102		LITTLE HICKMAN 9			
JESSAMINE	D103		BETHEL 3			
JESSAMINE	E101		NORTH KEENE 5A	060101	105B	
JESSAMINE	E101		NORTH KEENE 5A	060101	105C	
JESSAMINE	E101		NORTH KEENE 5A	060101	106C	
JESSAMINE	E103		5-C			
LINCOLN	B101		CRAB ORCHARD #1	9804	101	
LINCOLN	B101		CRAB ORCHARD #1	9804	102	
LINCOLN	B101		CRAB ORCHARD #1	9804	103	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
LINCOLN	B101		CRAB ORCHARD #1	9804	104	
LINCOLN	B101		CRAB ORCHARD #1	9804	105	
LINCOLN	B101		CRAB ORCHARD #1	9804	106	
LINCOLN	B101		CRAB ORCHARD #1	9804	107	
LINCOLN	B101		CRAB ORCHARD #1	9804	108	
LINCOLN	B101		CRAB ORCHARD #1	9804	109	
LINCOLN	B101		CRAB ORCHARD #1	9804	110	
LINCOLN	B101		CRAB ORCHARD #1	9804	111	
LINCOLN	B101		CRAB ORCHARD #1	9804	112	
LINCOLN	B101		CRAB ORCHARD #1	9804	113	
LINCOLN	B101		CRAB ORCHARD #1	9804	114	
LINCOLN	B101		CRAB ORCHARD #1	9804	115	
LINCOLN	B101		CRAB ORCHARD #1	9804	116	
LINCOLN	B101		CRAB ORCHARD #1	9804	117	
LINCOLN	B101		CRAB ORCHARD #1	9804	118	
LINCOLN	B101		CRAB ORCHARD #1	9804	119	
LINCOLN	B101		CRAB ORCHARD #1	9804	120	
LINCOLN	B101		CRAB ORCHARD #1	9804	121	
LINCOLN	B101		CRAB ORCHARD #1	9804	122	
LINCOLN	B101		CRAB ORCHARD #1	9804	123	
LINCOLN	B101		CRAB ORCHARD #1	9804	124	
LINCOLN	B101		CRAB ORCHARD #1	9804	125	
LINCOLN	B101		CRAB ORCHARD #1	9804	126	
LINCOLN	B101		CRAB ORCHARD #1	9804	127A	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
LINCOLN	B101		CRAB ORCHARD #1	9804	127B	
LINCOLN	B101		CRAB ORCHARD #1	9804	128	
LINCOLN	B101		CRAB ORCHARD #1	9804	129	
LINCOLN	B101		CRAB ORCHARD #1	9804	138	
LINCOLN	B101		CRAB ORCHARD #1	9804	139A	
LINCOLN	B101		CRAB ORCHARD #1	9804	139B	
LINCOLN	B101		CRAB ORCHARD #1	9804	140A	
LINCOLN	B101		CRAB ORCHARD #1	9804	140B	
LINCOLN	B101		CRAB ORCHARD #1	9804	141	
LINCOLN	B101		CRAB ORCHARD #1	9804	142	
LINCOLN	B101		CRAB ORCHARD #1	9804	143	
LINCOLN	B101		CRAB ORCHARD #1	9804	144	
LINCOLN	B102		CRAB ORCHARD #2			
LINCOLN	B103		BROUGHTENTOWN	9803	310	
LINCOLN	B103		BROUGHTENTOWN	9803	311	
LINCOLN	B103		BROUGHTENTOWN	9803	312	
LINCOLN	B103		BROUGHTENTOWN	9803	313	
LINCOLN	B103		BROUGHTENTOWN	9803	314	
LINCOLN	B103		BROUGHTENTOWN	9803	317	
LINCOLN	B103		BROUGHTENTOWN	9803	318	
LINCOLN	B103		BROUGHTENTOWN	9803	319	0202
LINCOLN	B103		BROUGHTENTOWN	9803	337	0202
LINCOLN	B103		BROUGHTENTOWN	9804	303	
LINCOLN	B103		BROUGHTENTOWN	9804	304	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
LINCOLN	B103		BROUGHTENTOWN	9804	305	
LINCOLN	B103		BROUGHTENTOWN	9804	306	
LINCOLN	B103		BROUGHTENTOWN	9804	307	
LINCOLN	B103		BROUGHTENTOWN	9804	308	
LINCOLN	B103		BROUGHTENTOWN	9804	309	
LINCOLN	B103		BROUGHTENTOWN	9804	326	
LINCOLN	B103		BROUGHTENTOWN	9804	327	
LINCOLN	B103		BROUGHTENTOWN	9804	328	
LINCOLN	B103		BROUGHTENTOWN	9804	329	
LINCOLN	B103		BROUGHTENTOWN	9804	330	
LINCOLN	B103		BROUGHTENTOWN	9804	331	
LINCOLN	B103		BROUGHTENTOWN	9804	332	
LINCOLN	B103		BROUGHTENTOWN	9804	333	
LINCOLN	B103		BROUGHTENTOWN	9804	334	
LINCOLN	B103		BROUGHTENTOWN	9804	335	
LINCOLN	B103		BROUGHTENTOWN	9804	336	
LINCOLN	B103		BROUGHTENTOWN	9804	337	
LINCOLN	B103		BROUGHTENTOWN	9804	338	
LINCOLN	B103		BROUGHTENTOWN	9804	339	
LINCOLN	B103		BROUGHTENTOWN	9804	341	
LINCOLN	B103		BROUGHTENTOWN	9804	342	
LINCOLN	B103		BROUGHTENTOWN	9804	399	
LINCOLN	C101		WAYNESBURG #1			
LINCOLN	C102		WAYNESBURG #2			

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
LINCOLN	C103		KINGS MOUNTAIN			
LINCOLN	C104		HALLS GAP			
LINCOLN	D102		MCKINNEY".			

Floor Amendment No. 4 to the House Committee Substitute to **SB 221**, by Representative K. Harper:

Amend printed copy of **SB 221/HCS** on page 172, line 12, after "contributions" by inserting "to candidates other than slates of candidates for Governor and Lieutenant Governor".

Floor Amendment No. 3 to the House Committee Substitute to **SB 221**, by Representative K. Harper:

Amend printed copy of **SB 221/HCS** on page 20, by deleting lines 2 through 21 in their entirety.

Floor Amendment No. 5 to the House Committee Substitute to **SB 221**, by Representative Farrow:

Amend printed copy of **SB 221/HCS** on page 82, by deleting lines 24 through 26 in their entirety; and

On page 83, by deleting lines 1 through 23 in their entirety.

Orders of the Day (Continued)

SB 323, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **SB 323**. Agreed.

Representative Lewis moved that **SB 323**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 85, Nays 2. (See March 24, 1992 roll call on **SB 323** - Appendix.)

SB 323, by way of Committee Substitute, was passed and the title agreed to.

Representative Lewis moved that the vote by which **SB 323**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 335, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lewis moved the adoption of the Committee Substitute to **SB 335**. Agreed.

Representative Lewis moved that **SB 335**, by way of Committee Substitute, be passed.

Representative Gray moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **SB 335**. Rejected.

Representative Riner moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **SB 335**.

On the roll call the vote was yeas 17—L. Clark, Cyrus, Gray, Hancock, Hatcher, Heleringer, Mack, Maggard, Mason, Noe, Reinhardt, Riner, Sanders, Scorsone, Strong, Wayne, Zimmerman. Nays 49—Ackerson, Allen, Altman, Ark, Brown, Callahan, Casebier, Castleman, P. Clark, Clarke, Coleman, Curd, Deskins, Farley, Farrow, Freibert, Gee, Geveden, Gregory, J. Harper, Hourigan, Johnson, Jones, Keith, Lear, Little, Long, McElroy, Moberly, Mullinix, Napier, Nelson, Noland, Northup, Nunn, Overstreet, Palumbo, Pritchett, Richardson, Ridley, Riggs, T. Smith, Stokes, Toby, Todd, Turner, Walker, Williams, Yates.

Floor Amendment No. 3 to the Committee Substitute to **SB 335** was rejected.

On the roll call on the passage of **SB 335**, by way of Committee Substitute, the vote was: Yeas 80, Nays 14. (See March 24, 1992 roll call on **SB 335** - Appendix.)

SB 335, by way of Committee Substitute, was passed and the title agreed to.

Representative Lewis moved that the vote by which **SB 335**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **SB 13**, **SB 51**, **SB 74**, **SB 75**, **SB 122**, **SB 147**, **SB 148**, **SB 149**, **SB 150**, **SB 205**, **SB 206**, **SB 212**, **SB 213**, **SB 214**, **SB 216**, **SB 341**, **SB 351**, **SJR 67** and **SJR 69** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:31 p.m)

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 308**, by Representative Mullinix:

Amend printed copy of **SB 308/GA** on page 14, by inserting the following after line 1:

"Section 10. KRS 118B.110 is amended to read as follows:

The First Congressional District shall consist of the following territory:

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
ADAIR	[~~A101~~		~~PELLYTON~~			
~~ADAIR~~	~~A102~~		~~WHITE OAK~~			
~~ADAIR~~	~~A104~~		~~EUNICE~~			

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
~~ADAIR~~	~~A105~~		~~LITTLE CAKE~~			
~~ADAIR~~	~~B101~~		~~GLENSFORK~~			
~~ADAIR~~	~~B102~~		~~E. COLUMBIA~~			
~~ADAIR~~	~~B104~~		~~OZARK~~			
~~ADAIR~~	~~C101~~		~~MELSON RIDGE~~			
~~ADAIR~~	~~C102~~		~~SOUTH COLUMBIA # 1~~			
~~ADAIR~~	~~C103~~		~~HARMONY~~			
~~ADAIR~~	~~D101~~		~~GRADYVILLE~~			
~~ADAIR~~	~~D102~~		~~NELL~~			
~~ADAIR~~	~~D103~~		~~SPARKSVILLE~~			
~~ADAIR~~	~~D104~~		~~SOUTH COLUMBIA # 2~~			
~~ADAIR~~	~~D105~~		~~BREEDING~~			
~~ADAIR~~	~~E101~~		~~MILLTOWN~~			
~~ADAIR~~	~~E102~~		~~TARTER~~			
~~ADAIR~~	~~E103~~		~~KELTNER~~			
~~ADAIR~~	~~E104~~		~~WEST COLUMBIA~~			
~~ADAIR~~	~~F101~~		~~CANE VALLEY~~			
~~ADAIR~~	~~F102~~		~~HOLMES~~			
~~ADAIR~~	~~F103~~		~~KNIFLEY~~			
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~102~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~103~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~107~~	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~108~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~109~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~110~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~111~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~112~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~201~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~202~~	~~0201~~
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~203~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~204~~	~~0201~~
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~205~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~206~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~207~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~208~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~209~~	
~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~210~~	
~~ADAIR~~	~~G101~~		~~NORTH COLUMBIA~~			
~~ADAIR~~	~~G102~~		~~HURT~~]			
ALLEN						
BALLARD						
BUTLER						
CALDWELL						
CALLOWAY						

COUNTY	PREC	SECT	NAME	CENSUS TRACT	BLCK	SECT
CARLISLE						
CHRISTIAN						
CLINTON						
CRITTENDEN						
CUMBERLAND						
FULTON						
GRAVESHENDERSON						
HICKMAN						
HOPKINS						
LIVINGSTON						
LOGAN						
LYON						
MARSHALL						
MCCRACKEN						
MCLEAN						
MONROE						
MUHLENBERG						
OHIO						
RUSSELL						
SIMPSON						
TODD						
TRIGG						

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
UNION						
WEBSTER						

Section 11. KRS 118B.120 is amended to read as follows:

The Second Congressional District shall consist of the following territory:

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
[~~ADAIR~~	~~F104~~		~~ROLEY~~	~~9701~~	~~101~~]	
BARREN						
BRECKINRIDGE						
BULLITT						
CASEY						
DAVIESS						
EDMONSON						
GRAYSON						
GREEN						
HANCOCK						
HARDIN						
HART						
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	411	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	412	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	413	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	414	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	419	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	420	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	901	0201
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	905	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	917	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	918	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	928	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	929	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	938	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	939	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	940	
JEFFERSON	A122		PRECINCT 122 28 DIS	012104	999	0201
JEFFERSON	B113		PRECINCT 113 29 DIS			
JEFFERSON	B116		PRECINCT 116 29 DIS			
JEFFERSON	B117		PRECINCT 117 29 DIS			
JEFFERSON	B120		PRECINCT 120 29 DIS			
JEFFERSON	B121		PRECINCT 121 29 DIS			
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	201	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	202	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	203	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	204	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	208	
JEFFERSON	C120		PRECINCT 120 30 DIS	011703	209	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
JEFFERSON	F109		PRECINCT 109 33 DIS			
JEFFERSON	F110		PRECINCT 110 33 DIS			
JEFFERSON	F111		PRECINCT 111 33 DIS			
JEFFERSON	F112		PRECINCT 112 33 DIS			
JEFFERSON	F113		PRECINCT 113 33 DIS			
JEFFERSON	F126		PRECINCT 126 33 DIS			
JEFFERSON	I126		PRECINCT 126 37 DIS	012003	302	0202
JEFFERSON	I126		PRECINCT 126 37 DIS	012003	304	
JEFFERSON	I126		PRECINCT 126 37 DIS	012003	305	
JEFFERSON	I126		PRECINCT 126 37 DIS	012003	309	
JEFFERSON	I126		PRECINCT 126 37 DIS	012003	399	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	216	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	217	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	218	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	219	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	220	
JEFFERSON	J123		PRECINCT 123 38 DIS	012003	302	0201
JEFFERSON	J124		PRECINCT 124 38 DIS			
JEFFERSON	J125		PRECINCT 125 38 DIS			
JEFFERSON	P105		PRECINCT 105 45 DIS	012001	908	0201
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	915	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	916	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	918	0201
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	919A	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	919B	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	919C	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	919D	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	920	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	921A	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	921B	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	921C	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	922A	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	922B	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	922C	
JEFFERSON	P110		PRECINCT 110 45 DIS	012001	923	
JEFFERSON	P110		PRECINCT 110 45 DIS	012003	307	
JEFFERSON	P110		PRECINCT 110 45 DIS	012003	308	
JEFFERSON	P110		PRECINCT 110 45 DIS	012003	310	
JEFFERSON	P110		PRECINCT 110 45 DIS	012003	311	
JEFFERSON	P110		PRECINCT 110 45 DIS	012003	312	
JEFFERSON	P110		PRECINCT 110 45 DIS	012003	313	
JEFFERSON	P110		PRECINCT 110 45 DIS	012003	399	
JEFFERSON	P111		PRECINCT 111 45 DIS			
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	903	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	904	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	905	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	906	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	908	0202
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	909	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	910	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	911	0201
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	912	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	913	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	914	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	917	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	918	0202
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	925	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	926	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	927	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	999	
JEFFERSON	P111		PRECINCT 111 45 DIS	012001	999	
JEFFERSON	P112		PRECINCT 112 45 DIS			
JEFFERSON	P113		PRECINCT 113 45 DIS			
JEFFERSON	P114		PRECINCT 114 45 DIS			
JEFFERSON	P115		PRECINCT 115 45 DIS			
JEFFERSON	P116		PRECINCT 116 45 DIS			

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
JEFFERSON	Q115		PRECINCT 115 46 DIS			
JEFFERSON	Q118		PRECINCT 118 46 DIS			
JEFFERSON	Q119		PRECINCT 119 46 DIS			
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	210	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	211	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	311	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	401	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	402	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	403	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	405	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	410	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	411	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	412	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	413	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	414	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	415	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	416	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	417	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	418	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	419	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	420	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	421	

COUNTY	PREC	SECT	NAME	TRACT	CENSUS BLCK	SECT
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	422	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	423	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	499	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	499	
JEFFERSON	Q120		PRECINCT 120 46 DIS	011703	499	
JEFFERSON	Q121		PRECINCT 121 46 DIS			
JEFFERSON	R125		PRECINCT 125 47 DIS			
JEFFERSON	R130		PRECINCT 130 47 DIS			
LARUE						
LINCOLN	C102		WAYNESBURG #2			
LINCOLN	C103		KINGS MOUNTAIN			
LINCOLN	D101		HUSTONVILLE			
LINCOLN	D102		MCKINNEY			
MARION						
MEADE						
METCALFE						
NELSON						
SPENCER						
TAYLOR						
WARREN						
WASHINGTON".						

Floor Amendment No. 1 to **SB 195**, by Representative Morris:

Amend printed copy of **SB 195/GA** on page 6, after line 1, by adding:

"Section 5. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall mean a person, including an elected public official, who is regularly employed by any department, board, agency, or branch of state government, and who is a contributing member to any one (1) of the retirement systems administered by the state, provided, however, that any federally funded time-limited employee may receive insurance coverage. It shall also include a person who must fulfill the requirements established by the State Board for Elementary and Secondary Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure, in compliance with the provisions of KRS 45A.080, 45A.085 and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. All state employees for whom such insurance or health maintenance organization coverage is provided shall annually be given an option to elect either standard insurance coverage or coverage by a health maintenance organization; except that if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of such employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either insurance or health maintenance organization coverage may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the commissioner of personnel, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under subtitle 32 of KRS Chapter 304, or one (1) or more prepaid dental plan organizations organized under subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom such dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain such provisions as he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by the state or department, board, or agency; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by the state or department, board, or agency for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, such employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer.

(6) No payment of premium by the state or department, board, or agency shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by the state or department, board, or agency shall be considered a proper cost of administration.

(7) The policy or policies may contain such provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and such other provisions as the commissioner of insurance may approve.

(8) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(9) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(10) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(11) The commissioner of personnel shall appoint twenty-four (24) persons to an advisory committee of state health insurance subscribers to advise the commissioner or his designee regarding the state health insurance program for state employees. The commissioner shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven Congressional districts, members representing state government from each of the seven Congressional districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments and three (3) members at large. The commissioner shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association, and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(12) The secretary of the Finance and Administration Cabinet and the commissioner of the Department of Personnel, in procurement of a policy or policies of health insurance or health maintenance organization coverage for state employees pursuant to this section, shall not discriminate among insurers or health maintenance organizations approved under this section in:

(a) The level of funding or reimbursement;

(b) The amount of access to state employees for the purpose of providing information on coverages and options; and

(c) The service area access of each individual health care provider as approved by the commissioner of the Department of Insurance."

Orders of the Day (Continued)

SB 130, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **SB 130** be passed.

Representative Morris moved the adoption of Floor Amendment No. 1 to **SB 130**. Rejected.

Representative Ridley moved the adoption of Floor Amendment No. 2 to **SB 130**.

Representative Farrow inquired whether Floor Amendment No. 2 is germane to **SB 130**.

The Speaker ruled that Floor Amendment No. 2 is germane to **SB 130**.

Representative Ridley moved the adoption of Floor Amendment No. 2 to **SB 130**. Rejected.

On the roll call on the passage of **SB 130** the vote was: Yeas 90, Nays 2 . (See March 24, 1992 roll call on **SB 130** - Appendix.)

SB 130 was passed and the title agreed to.

Representative Hancock moved that the vote by which **SB 130** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 159 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **SB 159** be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See March 24, 1992 roll call on **SB 159** - Appendix.)

SB 159 was passed and the title agreed to.

Representative Worthington moved that the vote by which **SB 159** was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported that **HB 89, HB 199, HB 212, HB 285, HB 349, HB 438, HB 450, HB 502, HB 512, HB 534, HB 562, HB 601, HB 610, HB 761, HB 788, HB 830** and **HJR 121** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 3:45 p.m.)

HB 89, HB 199, HB 212, HB 285, HB 349, HB 438, HB 450, HB 502, HB 512, HB 534, HB 562, HB 601, HB 610, HB 761, HB 788, HB 830 and **HJR 121** were delivered to the Senate and signed by the President. Delivered to the Governor on March 24, 1992 at 4:15 p.m.

Orders of the Day (Continued)

SB 267, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Floor Amendment No. 1 to **SB 267**.

Representative Farrow inquired whether Floor Amendment No. 1 is germane to **SB 267**.

The Speaker ruled that Floor Amendment No. 1 is germane to **SB 267**.

Representative Morris moved the adoption of Floor Amendment No. 1 to **SB 267**. Rejected.

Representative Morris moved that **SB 267** be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See March 24, 1992 roll call on **SB 267** - Appendix.)

SB 267 was passed and the title agreed to.

Representative Morris moved that the vote by which **SB 267** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 1 to **SB 63**, by Representative Lear:

Amend printed copy of **SB 63/GA** on page 20, after line 26 and before page 21, line 1, by inserting the following:

SECTION 14. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 through 13 of this Act shall prohibit or restrict a public servant from accepting outside employment in a state institution of higher education as long as that outside employment does not interfere or conflict with the public servant's state employment duties. Nothing in this section shall

prohibit or restrict a present or former public servant from accepting employment with a state institution of higher education immediately following termination of his office or employment in another state agency."; and

On page 21, line 1, by changing "SECTION 14" to "SECTION 15"; and

On page 22, line 4, by changing "Section 15" to "Section 16"; and

On page 22, line 14, by changing "Section 16" to "Section 17".

Orders of the Day (Continued)

SB 285 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 285** be passed.

On the roll call the vote was: Yeas 80, Nays 4. (See March 24, 1992 roll call on **SB 285** - Appendix.)

SB 285 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 285** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 318, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Committee Amendment No. 1 to **SB 318**. Agreed.

Representative Deskins moved that **SB 318**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 24, 1992 roll call on **SB 318** - Appendix.)

SB 318, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 318**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 330, with Floor Amendment and Floor Title Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 330** be passed.

Representative Mason moved the adoption of Floor Amendment No. 1 to **SB 330**.

Representative Farrow inquired whether Floor Amendment No. 1 is germane to **SB 330**.

The Speaker ruled that Floor Amendment No. 1 is not germane to **SB 330**.

On the roll call on the passage of **SB 330** the vote was: Yeas 94, Nays 0. (See March 24, 1992 roll call on **SB 330** - Appendix.)

SB 330 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 330** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 191 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 191** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 24, 1992 roll call on **SB 191** - Appendix.)

SB 191 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 191** was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to the House Committee Substitute to **SB 221**, by Representative Jensen:

Amend printed copy of **SB 221/HCS** on page 1, by deleting lines 1 through 20 in their entirety; and

By deleting pages 2 through 35 in their entirety; and

On page 36, by deleting lines 1 through 8 in their entirety; and

On page 36, line 9, by deleting "14" and inserting in lieu thereof "1"; and

On page 39, line 13, by deleting "***Section 5 of this Act or***"; and

On page 41, line 14, by deleting "14" and inserting in lieu thereof "1"; and

On page 52, line 2, by deleting "***Section 5 of this Act***" and inserting in lieu thereof "***KRS 121.150(6)***"; and

On page 52, line 11, by deleting "***Section 5 of***"; and

On page 52, line 12, by deleting "***this Act***" and inserting in lieu thereof "***KRS 121.150(6)***"; and

On page 53, line 13, by deleting "***Section 5 of***"; and

On page 53, line 14, by deleting "***this Act***" and inserting in lieu thereof "***KRS 121.150(6)***"; and

On page 53, line 17, by deleting "***Section 5 of***"; and

On page 53, line 18, by deleting "***this Act***" and inserting in lieu thereof "***KRS 121.150(6)***"; and

On page 55, line 20, after "state" by deleting the remainder of the line; and

On page 55, by deleting line 21 in its entirety; and

On page 55, line 22, by deleting "***Act***"; and

On page 56, line 3, after "***state***" by deleting the remainder of the line; and

On page 56, line 4, by deleting all language preceding "."; and

On page 57, line 13, by deleting "***Limits on***"; and

On page 57, by deleting lines 14 through 17 in their entirety; and

On page 61, by deleting lines 3 through 10 in their entirety; and

On page 61, line 11, by deleting "***(19)***" and inserting in lieu thereof "***(18)***"; and

On page 61, line 20, by deleting "***(20)***" and inserting in lieu thereof "***(19)***"; and

On page 62, line 4, by deleting "***(21)***" and inserting in lieu thereof "***(20)***"; and

On page 62, line 9, by deleting "***(22)***" and inserting in lieu thereof "***(21)***"; and

On page 62, line 14, by deleting "***(23)***" and inserting in lieu thereof "***(22)***"; and

On page 62, line 17, after "***election***" by deleting the remainder of the line; and

On page 62, line 18, by deleting all language preceding "."; and

On page 62, line 19, by deleting "***(24)***" and inserting in lieu thereof "***(23)***"; and

On page 66, line 20, by deleting "***and subsection (5) of Section 2 of this Act***"; and

On page 67, line 4, after "***(5)***" by deleting the remainder of the line; and

On page 67, by deleting lines 5 through 16 in their entirety; and

On page 67, line 17, by deleting "***(6)***"; and

On page 68, line 16, by deleting "***or subsection***"; and

On page 68, line 17, by deleting all language and punctuation preceding "***if***"; and

On page 69, line 10, by deleting "***or subsection (5) of***"; and

On page 69, line 11, by deleting all language and punctuation preceding "***if***"; and

On page 76, line 26, by deleting "***(a)***"; and

On page 78, line 4, by deleting "***; and***" and inserting in lieu thereof "."; and

On page 78, by deleting lines 5 through 19 in their entirety; and

On page 82, line 7, by deleting "***Except as provided in***"; and

On page 82, line 8, by deleting all language preceding "any" and capitalizing "any"; and

On page 87, line 15, after "***121.310(1),***" by inserting "***or***" and deleting "***or KRS Chapter 121A,***"; and

On page 88, line 8, by deleting "***or KRS Chapter 121A***"; and

On page 88, line 21, by deleting "***or KRS Chapter 121A***"; and

On page 88, line 24, by deleting "***or KRS Chapter 121A***"; and

On page 89, line 13, by deleting "***and***"; and

On page 89, line 14, by deleting "***KRS Chapter 121A***"; and

On page 89, line 19, by deleting "***or KRS Chapter 121A***"; and

On page 90, line 6, by deleting "***or KRS Chapter 121A***"; and

On page 92, line 23, by deleting "***16***" and inserting in lieu thereof "***3***"; and

On page 93, line 4, by deleting "***16***" and inserting in lieu thereof "***3***"; and

On page 93, line 15, by deleting "***16***" and inserting in lieu thereof "***3***"; and

On page 93, line 24, by deleting "***16***" and inserting in lieu thereof "***3***"; and

On page 94, line 3, by deleting "***16***" and inserting in lieu thereof "***3***"; and

On page 130, line 16, by deleting "***45***" and inserting in lieu thereof "***32***"; and

On page 131, line 26, by deleting "***and KRS Chapter 121A***"; and

On page 132, line 11, by deleting "***and***"; and

On page 132, line 12, by deleting "***KRS Chapter 121A***"; and

On page 133, line 17, by deleting "***and KRS Chapter 121A***"; and

On page 134, line 22, by deleting "***and KRS Chapter 121A***"; and

On page 134, line 23, by deleting "***; and***"; and

On page 134, by deleting line 24 in its entirety; and

On page 134, line 25, by deleting "***Chapter 121A***"; and

On page 138, line 20, after "***report***" by deleting "***,***"; and

On page 138, line 21, by deleting "***payment of an administrative fee,***"; and

On page 138, line 22, by deleting "***fee payment,***"; and

On page 140, line 24, by deleting "***, payment of an administrative***"; and

On page 140, line 25, by deleting "***fee,***"; and

On page 140, line 26, by deleting "***fee payment,***"; and

On page 156, line 18, by deleting "***50***" and inserting in lieu thereof "***37***"; and

On page 157, line 4, by deleting "***50 to 53***" and inserting in lieu thereof "***37 to 40***"; and

On page 157, line 10, by deleting "***50 to 53***" and inserting in lieu thereof "***37 to 40***"; and

On page 165, by deleting lines 2 through 26 in their entirety; and

By deleting pages 166 through 171 in their entirety; and

On page 172, by deleting lines 1 and 2 in their entirety; and

On page 172, line 6, by deleting "14" and inserting in lieu thereof "1"; and

On page 172, line 10, by deleting "25" and inserting in lieu thereof "12"; and

On page 172, line 11, by deleting "28" and inserting in lieu thereof "15"; and

On page 172, line 15, by deleting "Subject to the"; and

On page 172, by deleting line 16 in its entirety; and

On page 172, line 17, by capitalizing "the"; and

On page 172, line 21, by deleting "16 and 24" and inserting in lieu thereof "3 and 11"; and

On page 173, line 2, by deleting "24" and inserting in lieu thereof "11"; and

On page 173, by deleting lines 5 through 13 in their entirety; and

By renumbering Sections 15 through 63 accordingly.

Floor Amendment No. 6 to the House Committee Substitute to **SB 221**, by Representative Jensen:

Amend printed copy of **SB 221/HCS** on page 2, line 3, by deleting "***primary or runoff***"; and

On page 2, line 11, after "***amount.***" by deleting the remainder of the line; and

On page 2, by deleting lines 12 through 18 in their entirety; and

On page 2, line 19, by deleting all language preceding "***;***"; and

On page 8, line 9, after "***(c).***" by deleting the remainder of the line; and

On page 8, by deleting lines 10 through 12 in their entirety; and

On page 8, line 13, by deleting all language preceding "***All***"; and

On page 8, line 26, by deleting "***, each runoff primary,***"; and

On page 9, line 21, after "***Act***" by inserting "." and deleting the remainder of the line; and

On page 9, by deleting lines 22 and 23 in their entirety; and

On page 11, line 10, by deleting "***and***"; and

On page 11, by deleting line 11 in its entirety; and

On page 11, line 12, by deleting "***runoff primary***"; and

On page 13, line 8, by deleting "***runoff***"; and

On page 13, line 9, by deleting "***primary or the***"; and

On page 19, by deleting lines 16 through 26 in their entirety; and

On page 20, by deleting line 1; and

On page 20, line 2, by deleting "***(12)***" and inserting in lieu thereof "***(11)***"; and

On page 23, by deleting lines 8 through 11 in their entirety; and

On page 23, line 12, by deleting "***(3)***" and inserting in lieu thereof "***(2)***"; and

On page 24, line 5, by deleting "***(4)***" and inserting in lieu thereof "***(3)***"; and

On page 24, line 8, by deleting "***, runoff primary***"; and

On page 24, line 9, by deleting "***election,***"; and

On page 24, line 21, after "***fund.***" by deleting the remainder of the line; and

On page 24, by deleting lines 22 through 25 in their entirety; and

On page 24, line 26, by deleting "***the runoff primary***"; and

On page 25, line 17, by deleting "***(5)***" and inserting in lieu thereof "***(4)***"; and

On page 26, line 4, by deleting "***(6)***" and inserting in lieu thereof "***(5)***"; and

On page 26, line 5, by deleting "***, runoff***"; and

On page 26, line 6, by deleting "***primary,***"; and

On page 26, line 21, by deleting "***(7)***" and inserting in lieu thereof "***(6)***"; and

On page 27, line 8, by deleting "***(8)***" and inserting in lieu thereof "***(7)***"; and

On page 27, line 21, by deleting "***(9)***" and inserting in lieu thereof "***(8)***"; and

On page 27, line 26, by deleting "***(10)***" and inserting in lieu thereof "***(9)***"; and

On page 28, line 16, by deleting "***(11)***" and inserting in lieu thereof "***(10)***"; and

On page 29, line 17, by deleting "***(12)***" and inserting in lieu thereof "***(11)***"; and

On page 29, line 20, by deleting "***(13)***" and inserting in lieu thereof "***(12)***"; and

On page 30, line 3, by deleting "***(14)***" and inserting in lieu thereof "***(13)***"; and

On page 30, line 10, by deleting "***(15)***" and inserting in lieu thereof "***(14)***"; and

On page 30, line 25, after "***primary***" the first time it appears by deleting "***, runoff primary, if one is held,***"; and

On page 31, line 9, after "***primary***" the first time it appears by deleting the remainder of the line; and

On page 31, line 10, by deleting "***preceding a***" and inserting in lieu thereof "***or***"; and

On page 37, line 1, by deleting "***runoff***"; and

On page 37, line 2, by deleting "***primary,***"; and

On page 60, line 2, after "[~~(14)~~]" by deleting the remainder of the line; and

On page 60, by deleting lines 3 through 9 in their entirety; and

On page 60, line 10, by deleting "***(16)***"; and

On page 60, line 20, by deleting "***(17)***" and inserting in lieu thereof "***(16)***"; and

On page 61, line 3, by deleting "***(18)***" and inserting in lieu thereof "***(17)***" and by deleting "***(13) to (17)***" and inserting in lieu thereof "***(14) to (16)***"; and

On page 61, line 11, by deleting "***(19)***" and inserting in lieu thereof "***(18)***"; and

On page 61, line 12, by deleting "***(16)***" and inserting in lieu thereof "***(15)***"; and

On page 61, line 15, by deleting "***subsections (15) and (17)***" and inserting in lieu thereof "***subsection (16)***"; and

On page 61, line 17, by deleting "***runoff primary or***"; and

On page 61, line 20, by deleting "***(20)***" and inserting in lieu thereof "***(19)***"; and

On page 62, line 4, by deleting "***(21)***" and inserting in lieu thereof "***(20)***"; and

On page 62, line 9, by deleting "***(22)***" and inserting in lieu thereof "***(21)***"; and

On page 62, line 14, by deleting "***(23)***" and inserting in lieu thereof "***(22)***"; and

On page 62, line 19, by deleting "***(24)***" and inserting in lieu thereof "***(23)***"; and

On page 68, line 26, by deleting "***runoff primary,***"; and

On page 69, line 19, by deleting “***runoff primary,***”; and

On page 70, line 6, after “***deadline.***” by deleting the remainder of the line; and

On page 70, by deleting lines 7 through 11 in their entirety; and

On page 70, line 12, by deleting “***election.***”; and

On page 70, line 16, by deleting “***, or runoff primary, if one***”; and

On page 70, line 17, by deleting “***is held,***”; and

On page 70, line 19, by deleting “***, or runoff primary,***”; and

On page 70, line 20, by deleting “***if one is held***”; and

On page 72, line 11, after “primary” by deleting “***,***”; and

On page 72, by deleting line 12 in its entirety; and

On page 72, line 13, by deleting “***participate,***”; and

On page 105, line 14, after “races.” by deleting the remainder of the line; and

On page 105, by deleting lines 15 and 16 in their entirety; and

On page 108, line 24, by deleting all language preceding “.”; and

On page 113, line 14, after “(5)” by deleting the remainder of the line; and

On page 113, by deleting lines 15 through 26 in their entirety; and

On page 114, by deleting lines 1 and 2 in their entirety; and

On page 114, line 3, by deleting “***(6)***”; and

On page 114, line 10, by deleting “***(7)***” and removing the brackets and strike-throughs from “[~~(6)~~]”; and

On page 114, line 23, by deleting “***(8)***” and removing the brackets and strike-throughs from “[~~(7)~~]”; and

On page 116, line 2, by deleting “***ten (10)***” and removing the brackets and strike-throughs from “[~~fifteen (15)~~]”; and

On page 116, line 23, by deleting “***runoff primary,***”; and

On page 117, line 1, by deleting “***runoff primary,***”; and

On page 117, line 15, by removing the brackets and strike-throughs from “[~~and~~]” and deleting “***, and runoff primary***”; and

On page 117, line 25, after “(4)” by deleting the remainder of the line; and

On page 117, by deleting line 26 in its entirety; and

On page 118, by deleting lines 1 through 9 in their entirety; and

On page 118, line 10, by deleting “***succeeding Tuesday.***”; and

On page 119, line 17, after “(b)” by deleting the remainder of the line; and

On page 119, line 18, by deleting “***primary;***”; and

On page 119, line 19, by deleting “***(c)***”; and

On page 119, line 22, by deleting “***(d)***” and removing the brackets and strike-throughs from “[~~(e)~~]”; and

On page 123, line 3, by deleting “***, twenty-six (26) days before a runoff primary,***”; and

On page 123, line 20, by deleting “***other than***” and inserting in lieu thereof “***or the slate of candidates for***”; and

On page 123, by deleting line 26 in its entirety; and

By deleting page 124 in its entirety; and

On page 125, by deleting lines 1 through 3 in their entirety; and

On page 125, line 4, by deleting “***(6)***” and inserting in lieu thereof “***(2)***” and deleting the remainder of the line; and

On page 125, line 5, by deleting “***a runoff primary,***” and capitalizing “if”; and

On page 125, line 6, by deleting “***runoff primary or***”; and

On page 126, line 2, by deleting “***ten (10)***” and removing the brackets and strike-throughs from “[~~fifteen (15)~~]”; and

On page 126, line 5, by deleting “***seven (7)***” and removing the brackets and strike-throughs from “[~~ten (10)~~]”; and

On page 126, line 15, by deleting “***seven (7)***” and removing the brackets and strike-throughs from “[~~ten (10)~~]”; and

On page 127, line 22, by deleting “***ten (10)***” and removing the brackets and strike-throughs from “[~~fifteen 5)~~ ”.

Floor Amendment No. 7 to the House Committee Substitute to **SB 221**, by Representative Jensen:

Amend printed copy of **SB 221/HCS** page 42, line 8, by deleting "***nonbid***"; and

On page 42, line 21, by deleting "***nonbid***"; and

On page 42, line 26, by deleting "***nonbid***"; and

On page 43, line 10, by deleting "***nonbid***"; and

On page 43, line 21, by deleting "***nonbid***"; and

On page 43, line 26, by deleting "***nonbid***"; and

On page 92, line 20, by deleting "***nonbid***"; and

On page 92, line 22, by deleting "***nonbid***"; and

On page 93, line 2, by deleting "***nonbid***"; and

On page 93, line 5, by deleting "***nonbid***"; and

On page 93, line 7, by deleting "***nonbid***"; and

On page 93, line 11, by deleting "***nonbid***"; and

On page 93, line 14, by deleting "***nonbid***"; and

On page 93, line 21, by deleting "***nonbid***"; and

On page 94, line 1, by deleting "***nonbid***"; and

On page 94, line 5, by deleting "***nonbid***"; and

On page 94, line 7, by deleting "***nonbid***".

Floor Amendment No. 8 to the House Committee Substitute to **SB 221**, by Representative Jensen:

Amend printed copy of **SB 221/HCS** on page 14, line 7, by deleting "***executive committee of a political***"; and

On page 14, line 8, by deleting "***party,***"; and

On page 14, line 11, by deleting "***executive committee***"; and

On page 14, line 12, by deleting "***of a political party,***"; and

On page 14, line 25, by deleting "***executive committee***"; and

On page 14, line 26, by deleting "***of a political party,***"; and

On page 15, line 8, by deleting "***executive committee of a political party,***"; and

On page 58, line 11, by deleting all underlined language and removing the opening bracket and strike-throughs from "[~~six thousand~~"; and

On page 58, line 12, by removing the strike-throughs and closing bracket from "~~dollars ($6,000)~~]"; and

On page 58, line 14, by deleting "***Contributions a person***"; and

On page 58, by deleting lines 15 through 19 in their entirety.

Floor Amendment No. 9 to the House Committee Substitute to **SB 221**, by Representative Jensen:

Amend printed copy of **SB 221/HCS** on page 172, line 3, after "60." by inserting:

"KRS 15.100 is amended to read as follows:

(1) The Attorney General shall appoint ***two*** [~~a~~] deputy ***attorneys*** [~~attorney~~] general, who shall have the same qualifications required of a Circuit Court judge except for residence in a district and who shall receive the same salary as a Circuit Court judge, to serve at the pleasure of the Attorney General. ***One deputy attorney general shall perform the duties the Attorney General shall designate and one deputy attorney general shall perform the duties of investigating and, when necessary, prosecuting violations of campaign finance and election laws*** [~~and to perform the duties he may designate~~]. The Attorney General may appoint two (2) assistant deputy attorneys general, who shall have the same qualifications required of a District Court judge except for residence in a district and who shall receive the same salary as a District Court judge, to serve at the pleasure of the Attorney General and to perform the duties he may designate. In addition thereto, he may appoint another assistant deputy attorney general to function as administrator and shall set his salary.

(2) In addition to the deputy ***attorneys*** [~~attorney~~] general, the Attorney General shall appoint such assistants and special attorneys as he deems necessary to transact the business of the Department of Law, and to perform the duties he may designate. The deputy ***attorneys*** [~~attorney~~] general, assistant deputy attorneys general, assistants, and special attorneys shall have full power, as authorized and under the direction of the Attorney General, to perform such duties as may be performed by the Attorney General. The Attorney General shall be responsible for the official acts of his deputy, assistant deputy attorneys general, assistants, and special attorneys.

(3) In addition to the appointment and designation of [~~a~~] deputy ***attorneys general,*** assistant deputy attorneys general, assistants, and special attorneys pursuant to subsections (1) and (2) of this section, the Attorney General may enter into such contracts for legal services as he deems necessary and advisable.

(4) Each assistant or special attorney so appointed or designated shall be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office.

Section 61."; and

On page 172, line 6, by deleting "61" and inserting in lieu thereof "62" and by inserting after "62.":

"There is appropriated to the office of the Attorney General out of the general fund in the State Treasury the sum of $250,000 for each of the fiscal years 1993 and 1994 for the investigation and prosecution of violations of campaign finance and election laws.

Section 63."; and

By renumbering the remaining sections accordingly.

Floor Title Amendment to the House Committee Substitute to **SB 221**, by Representative Jensen:

Amend printed copy of **SB 221/HCS** by amending the title to read "AN ACT relating to the regulation of the conduct and financing of elections and making an appropriation therefor."

Floor Amendment No. 10 to the House Committee Substitute to **SB 221**, by Representative Lear:

Amend printed copy of **SB 221/HCS** on page 56, line 18, by deleting "***one***" and inserting in lieu thereof "***five hundred***" and removing the closing bracket from "[~~four~~]" and striking through "thousand" and placing a closing bracket after "~~thousand~~"; and

On page 56, line 19, by deleting "***($1,000)***" and inserting in lieu thereof "***($500)***"; and

On page 57, line 3, by deleting "***one***" and inserting in lieu thereof "***five hundred***" and removing the closing bracket from "[~~four~~]" and striking through "thousand" and placing a closing bracket after "~~thousand~~"; and

On page 57, line 4, by deleting "***($1,000)***" and inserting in lieu thereof "***($500)***".

Floor Amendment No. 2 to **SB 63**, by Representative Wayne:

Amend printed copy of **SB 63/GA** on page 8, line 11, after the word "***from***" by inserting the words "***accepting employment with a social services or comprehensive care agency or firm, or from***".

Orders of the Day (Continued)

SB 144 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved that **SB 144** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 24, 1992 roll call on **SB 144** - Appendix.)

SB 144 was passed and the title agreed to.

Representative Deskins moved that the vote by which **SB 144** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 37 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jones moved that **SJR 37** be adopted.

On the roll call the vote was: Yeas 95, Nays 0. (See March 24, 1992 roll call on **SJR 37** - Appendix.)

SJR 37 was adopted.

Representative Stumbo moved that the vote by which **SJR 37** was adopted be reconsidered and said motion be placed on the table. Agreed.

SB 18 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **SB 18** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 24, 1992 roll call on **SB 18** - Appendix.)

SB 18 was passed and the title agreed to.

Representative Barrows moved that the vote by which **SB 18** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 311 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **SB 311** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 24, 1992 roll call on **SB 311** - Appendix.)

SB 311 was passed and the title agreed to.

Representative Ark moved that the vote by which **SB 311** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 139, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ark moved that **SB 139** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 24, 1992 roll call on **SB 139** - Appendix.)

SB 139 was passed and the title agreed to.

Representative Ark moved that the vote by which **SB 139** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 151, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of the Committee Substitute to **SB 151**. Agreed.

Representative Mason moved the adoption of Committee Amendment No. 1 to **SB 151**. Agreed.

Representative Donnermeyer moved that **SB 151**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 24, 1992 roll call on **SB 151** - Appendix.)

SB 151, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **SB 151**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 401, with Senate Floor Amendments and Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 401** is as follows:

HB 401, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Secretary" means the secretary of revenue;

(2) "Cabinet" means the Revenue Cabinet;

(3) "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, ***1991*** [~~1989~~], exclusive of any amendments made subsequent to that date***, other than amendments that extend provisions in effect on December 31, 1991, that would otherwise terminate,*** and as modified by KRS 141.0101;

(4) "Dependent" means those persons defined as dependents in the Internal Revenue Code;

(5) "Fiduciary" means "fiduciary" as defined in Section 7701(a)(6) of the Internal Revenue Code;

(6) "Fiscal year" means "fiscal year" as defined in Section 7701(a)(24) of the Internal Revenue Code;

(7) "Individual" means a natural person;

(8) For taxable years beginning on or after January 1, 1974, "federal income tax" means the amount of federal income tax actually paid or accrued for the taxable year on taxable income as defined in Section

63 of the Internal Revenue Code, and taxed under the provisions of this chapter, minus any federal tax credits actually utilized by the taxpayer;

(9) "Gross income" in the case of taxpayers other than corporations means "gross income" as defined in Section 61 of the Internal Revenue Code;

(10) "Adjusted gross income" in the case of taxpayers other than corporations means gross income as defined in subsection (9) of this section minus the deductions allowed individuals by Section 62 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter, and except that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States and Kentucky;

(b) Exclude income from supplemental annuities provided by the Railroad Retirement Act of 1937 as amended and which are subject to federal income tax by Public Law 89-699;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude employee pension contributions picked up as provided for in KRS 6.505, 16.545, 21.360, 61.560, 65.155, 67A.320, 67A.510, 78.610, and 161.540 upon a ruling by the Internal Revenue Service or the federal courts that these contributions shall not be included as gross income until such time as the contributions are distributed or made available to the employee;

(e) Exclude Social Security and [~~tier I~~] railroad retirement benefits subject to federal income tax;

(f) Include, for taxable years ending before January 1, 1991, all overpayments of federal income tax refunded or credited for taxable years;

(g) Deduct, for taxable years ending before January 1, 1991, federal income tax paid for taxable years ending before January 1, 1990; and

(h) Exclude any money received because of a settlement or judgment in a lawsuit brought against a manufacturer or distributor of "Agent Orange" for damages resulting from exposure to Agent Orange by a member or veteran of the armed forces of the United States or any dependent of such person who served in Vietnam;

(11) "Net income" in the case of taxpayers other than corporations means adjusted gross income as defined in subsection (10) of this section, minus the standard deduction allowed by KRS 141.081, or, at the option of the taxpayer, minus the deduction allowed by KRS 141.0202 and minus all the deductions allowed individuals by Chapter 1 of the Internal Revenue Code as modified by KRS 141.0101 except those listed below, except that deductions shall be limited to amounts allocable to income subject to taxation under the provisions of this chapter and that nothing in this chapter shall be construed to permit the same item to be deducted more than once:

(a) Any deduction allowed by the Internal Revenue Code for state taxes measured by gross or net income, except that such taxes paid to foreign countries may be deducted;

(b) Any deduction allowed by the Internal Revenue Code for amounts allowable under KRS 140.090(1)(h) in calculating the value of the distributive shares of the estate of a decedent, unless there is filed with the income return a statement that such deduction has not been claimed under KRS 140.090(1)(h);

(c) The deduction for personal exemptions allowed under section 151 of the Internal Revenue Code and any other deductions in lieu thereof; and

(d) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(12) "Gross income," in the case of corporations, means "gross income" as defined in Section 61 of the Internal Revenue Code and as modified by KRS 141.0101 and adjusted as follows:

(a) Exclude income that is exempt from state taxation by the Kentucky Constitution and the Constitution and statutory laws of the United States;

(b) Exclude all dividend income received after December 31, 1969;

(c) Include interest income derived from obligations of sister states and political subdivisions thereof;

(d) Exclude fifty percent (50%) of gross income derived from any disposal of coal covered by Section 631(c) of the Internal Revenue Code if the corporation does not claim any deduction for percentage depletion, or for expenditures attributable to the making and administering of the contract under which such disposition occurs or to the preservation of the economic interests retained under such contract;

(e) Include in the gross income of lessors income tax payments made by lessees to lessors, under the provisions of Section 110 of the Internal Revenue Code, and exclude such payments from the gross income of lessees;

(f) Include the amount calculated under KRS 141.205;

(g) Ignore the provisions of Section 281 of the Internal Revenue Code in computing gross income; and

(h) Exclude income from "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code);

(13) "Net income," in the case of corporations, means "gross income" as defined in subsection (12) of this section minus the deduction allowed by KRS 141.0202 and minus all the deductions from gross income allowed corporations by Chapter 1 of the Internal Revenue Code and as modified by KRS 141.0101, except the following:

(a) Any deduction for a state tax which is computed, in whole or in part, by reference to gross or net income and which is paid or accrued to any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or to any foreign country or political subdivision thereof;

(b) The deductions contained in Sections 243, 244, 245, and 247 of the Internal Revenue Code;

(c) The provisions of Section 281 of the Internal Revenue Code shall be ignored in computing net income;

(d) Any deduction directly or indirectly allocable to income which is either exempt from taxation or otherwise not taxed under the provisions of this chapter, and nothing in this chapter shall be construed to permit the same item to be deducted more than once;

(e) Exclude expenses related to "safe harbor leases" (Section 168(f)(8) of the Internal Revenue Code); and

(f) Any deduction for amounts paid to any club, organization, or establishment which has been determined by the courts or an agency established by the General Assembly and charged with enforcing the civil rights laws of the Commonwealth, not to afford full and equal membership and full and equal enjoyment of its goods, services, facilities, privileges, advantages, or accommodations to any person because of race, color, religion, national origin, or sex, except nothing shall be construed to deny a deduction for amounts paid to any religious or denominational club, group, or establishment or any organization operated solely for charitable or educational purposes which restricts membership to persons of the same religion or denomination in order to promote the religious principles for which it is established and maintained;

(14) (a) "Taxable net income," in the case of corporations having property or payroll only in this state, means "net income" as defined in subsection (13) of this section;

(b) "Taxable net income," in the case of corporations having property or payroll both within and without this state means "net income" as defined in subsection (13) of this section and as allocated and apportioned under KRS 141.120;

(c) "Property" means either real property or tangible personal property which is either owned or leased. "Payroll" means compensation paid to one (1) or more individuals, as described in KRS 141.120(8)(b). Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction; and

(d) "Taxable net income" in the case of homeowners' associations as defined in Section 528(c) of the Internal Revenue Code, means "taxable income" as defined in Section 528(d) of the Internal Revenue Code. Notwithstanding the provisions of subsection (3) of this section, the Internal Revenue Code sections referred to in this paragraph shall be those code sections in effect for the applicable tax year;

(15) "Person" means "person" as defined in Section 7701(a)(1) of the Internal Revenue Code;

(16) "Taxable year" means the calendar year or fiscal year ending during such calendar year, upon the basis of which net income is computed, and in the case of a return made for a fractional part of a year under the provisions of this chapter or under regulations prescribed by the secretary, "taxable year" means the period for which such return is made;

(17) "Resident" means an individual domiciled within this state or an individual who is not domiciled in this state, but maintains a place of abode in this state and spends in the aggregate more than one hundred eighty-three (183) days of the taxable year in this state;

(18) "Nonresident" means any individual not a resident of this state;

(19) "Employer" means "employer" as defined in Section 3401(d) of the Internal Revenue Code;

(20) "Employee" means "employee" as defined in Section 3401(c) of the Internal Revenue Code;

(21) "Number of withholding exemptions claimed" means the number of withholding exemptions claimed in a withholding exemption certificate in effect under KRS 141.325, except that if no such certificate is in effect, the number of withholding exemptions claimed shall be considered to be zero;

(22) "Wages" means "wages" as defined in Section 3401(a) of the Internal Revenue Code and includes other income subject to withholding as provided in Section 3401(f) and Section 3402(k), (o), (p), [~~and~~] (q)***, and (s)*** of the Internal Revenue Code;

(23) "Payroll period" means "payroll period" as defined in Section 3401(b) of the Internal Revenue Code;

(24) "Corporations" means "corporations" as defined in Section 7701(a)(3) of the Internal Revenue Code;

(25) "S corporations" means "S corporations" as defined in Section 1361(a) of the Internal Revenue Code. Stockholders of a corporation qualifying as an "S corporation" under this chapter may elect to treat such qualification as an initial qualification under Subchapter S of the Internal Revenue Code Sections.

Section 2. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the taxpayer and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the taxpayer's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the taxpayer not allocated under subsections (3) through (7) of this section;

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) through (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the taxpayer's commercial domicile is in this state and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the taxpayer, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the taxpayer's commercial domicile is in this state and the taxpayer is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the taxpayer's commercial domicile is in this state.

(6) Interest is allocable to this state if the taxpayer's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the taxpayer is not taxable and the taxpayer's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the taxpayer's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

(8) ***Except as provided for in subsection (9) of this section,*** all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales

factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used.

(a) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor.

1. Property owned by the taxpayer is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero such property shall be valued by the cabinet under regulations promulgated by the cabinet. Property rented by the taxpayer is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the taxpayer from subrentals, provided that such rental and such subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero rate is charged, the cabinet may determine and apply such rental rate as will reasonably reflect the value of the property rented by the taxpayer.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the taxpayer's property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the taxpayer for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state; or

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in this state during the tax period, and the denominator of which is the total sales of the taxpayer everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) *(a)* If the allocation and apportionment provisions of this section do not fairly represent the extent of the taxpayer's business activity in this state, the taxpayer may petition for or the cabinet may require, in respect to all or any part of the taxpayer's business activity, if reasonable:

1.[~~(a)~~] Separate accounting;

2.[~~(b)~~] The exclusion of any one or more of the factors;

3.[~~(c)~~] The inclusion of one or more additional factors which will fairly represent the taxpayer's business activity in this state; or

4.[~~(d)~~] The employment of any other method to effectuate an equitable allocation and apportionment of the taxpayer's income.

(b) A taxpayer may elect the allocation and apportionment methods for the taxpayer's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

a. Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from such services for the tax period and the denominator of which shall be the total receipts everywhere from such services for the tax period.

b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which such services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

2. All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

a. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year; and

b. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(10) Public service companies and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(b) Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used. The payroll factor shall be determined as provided in subsection (8)(b) of this section. The property factor and sales factor shall be determined as provided by regulations promulgated by the cabinet.

Section 3. The provisions of Section 1 of this Act shall apply to taxable years beginning after December 31, 1991. The provisions of Section 2 of this Act shall apply to taxable years beginning after June 30, 1992.

The Senate Floor Amendment No. 3 to **HB 401** is as follows:

Amend printed copy of **HB 401/SCS** on page 21, after line 16 and before line 17, insert the following:

"Section 3. KRS 139.100 is amended to read as follows:

(1) "Retail sale" or "sale at retail" means:

(a) 1. A sale for any purpose other than resale in the regular course of business of tangible personal property, or

2. The furnishing of the facilities and services mentioned in subsection (2) of this section;

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.

(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of ***thirty (30)*** [~~ninety (90)~~] days or more to an individual;

(b) The furnishing of sewer services and intrastate telephonic and telegraphic communications and services;

(c) The sale of admissions, except, those taxed under KRS 138.480."; and

On page 21, line 17, delete "3" and insert "4".

The Senate Floor Amendment No. 4 to **HB 401** is as follows:

Amend printed copy of **HB 401/SCS** on page 21, after line 16, and before line 17 by inserting "Section 3. KRS 91A.390, as amended by 1992 House Bill 62, is further amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission for the ensuing year. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. ***Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set or rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more.*** [~~Transient room taxes shall not apply to rooms, lodgings, or accommondations supplied for a continuous period of thirty (30) days or more to the same individual.~~] The local governing body or bodies of the city, cities, county, or counties that have established a commission by joint or separate action, shall enact an ordinance that provides for the collection of the tax and the enforcement of the tax measure enacted pursuant to this section.

(2) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, may be used to finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business and shall include athletic stadiums. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax may not be used to provide a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(3) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year in which the money is borrowed. The commission may pledge its securities to secure the repayment of any sum so borrowed.

(4) The fiscal court or legislative body of a city which establishes a commission pursuant to subsection (1) or (2) of KRS 91A.350 is authorized and empowered to issue revenue bonds in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued, in effectuating the purposes of KRS 91A.350 to 91A.390, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of

and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(5) A commission established pursuant to subsection (3) of KRS 91A.350 is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, in accordance with procedures established in KRS Chapter 58 for revenue bonds for public projects, as defined in said chapter. Such bonds shall be issued in effectuating the purposes of KRS 91A.350 to 91A.390, to pay the cost, or a portion of the cost, of the acquisition of real estate, the construction of buildings and appurtenances thereto, the preparation of plans and specifications, and of legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, together with the interest thereon, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. No bond issued under the authority of this section, and no obligation to pay interest thereon, shall constitute an indebtedness of the county. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58."; and

On page 21, line 17, delete "3" and insert "4".

Representative Clarke moved that the House concur in the Senate Committee Substitute to **HB 401**. Agreed.

Representative Clarke moved that the House concur in Senate Floor Amendment No. 3 to **HB 401**. Agreed.

Representative Clarke moved that the House concur in Senate Floor Amendment No. 4 to **HB 401**. Agreed.

Representative Clarke moved that **HB 401**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 71, Nays 19. (See March 24, 1992 roll call on **HB 401** - Appendix.)

HB 401, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

HB 321, with Senate Committee Substitute and Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 321** is as follows:

HB 321, AN ACT relating to Commonwealth's attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.755 is amended to read as follows:

(1) The compensation of each Commonwealth's attorney shall be paid out of the State Treasury.

(2) The compensation of the staff of each Commonwealth's attorney shall be paid out of the State Treasury.

(3) In each judicial circuit containing a city of the first or second class or an urban-county government, or a city of the third class and a population of ***sixty-eight*** [~~seventy-five~~] thousand ***(68,000)*** [~~(75,000)~~] or more, the Commonwealth's attorney shall not engage in the private practice of law. The population of a judicial circuit shall, for the purpose of this statute, be determined by the most recent federal decennial census enumeration. All other Commonwealth's attorneys shall not be prohibited from engaging in the private practice of law.

(4) Each Commonwealth's attorney who is prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of twenty-six thousand dollars ($26,000) per annum.

(5) Each Commonwealth's attorney who is not prohibited from engaging in the private practice of law shall receive as compensation for his services the sum of fourteen thousand three hundred dollars ($14,300) per annum.

(6) Each Commonwealth's attorney of the state shall be paid each month the sum of five hundred dollars ($500), which sum is declared to be the equivalent of the minimum sum that each Commonwealth's attorney will expend each month in the performance of his official duties directed to be performed for the Commonwealth. The aforementioned sum shall be paid out of the State Treasury.

(7) In order to equate the compensation of Commonwealth's attorneys with the purchasing power of the dollar, the Finance and Administration Cabinet shall compute by the second Friday in February of every year the annual increase or decrease in the consumer price index of the preceding year by using 1949 as the base year in accordance with Section 246 of the Constitution of Kentucky which provides that the above elected officials shall be paid at a rate no greater than twelve thousand dollars ($12,000) per annum. The Finance and Administration Cabinet shall notify the appropriate governing bodies charged by law to fix the compensation of the above elected officials of the annual rate of compensation to which the elected officials are entitled pursuant to the increase or decrease in the consumer price index. Upon notification from the Finance and Administration Cabinet, the appropriate governing body may set the annual compensation of the above elected officials at a rate no greater than that stipulated by the Finance and Administration Cabinet.

Section 2. KRS 18A.370 is amended to read as follows:

For the purposes of KRS 18A.375 to 18A.385, the term "state employee" shall mean all persons, including elected public officials, who are regularly employed by the executive, judicial and legislative departments of government, except employees of the Transportation Cabinet and the University of Kentucky who have their own self-insurance fund. The term "state employee" shall also include volunteer firefighters and volunteer ambulance personnel; persons who are regularly employed by the Fayette County Health Department; and persons who are regularly employed by court clerks and sheriffs of counties with a population of ***seventy*** [~~seventy-five~~] thousand ***(70,000)*** [~~(75,000)~~] or more.

Section 3. KRS 64.121 is amended to read as follows:

When any sheriff in counties containing a population of less than ***seventy*** [~~seventy-five~~] thousand ***(70,000)*** [~~(75,000)~~] dies during his term of office, the fiscal court of any such county shall on or before the first day of March of the year following the death of such sheriff pay to the personal representative of the deceased sheriff sufficient money to reimburse his estate for the salaries of his deputies and assistants and other necessary expenses of his office incurred by the deceased sheriff during the year of his death. The fiscal court shall also pay to the deceased sheriff's personal representative a sum of money equal to a salary rate of six hundred dollars ($600) per month for the actual number of months which he performed the duties of sheriff during the year of his death. The total of all such sums of money in no event shall exceed one-twelfth (1/12) of the aggregate fees collected by the deceased sheriff and his successor during the year of his death and all fees and commissions the sheriff earned during the year of his death shall be deducted from the amount his personal representative is to receive by this section.

Section 4. KRS 64.345 is amended to read as follows:

(1) The county clerk and sheriff of each county having a population of ***seventy*** [~~seventy-five~~] thousand ***(70,000)*** [~~(75,000)~~] or over shall receive an annual salary of fourteen thousand three hundred dollars ($14,300).

(2) In counties containing a city of the first class and in counties having an urban-county form of government, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by an order entered upon the order book of the Circuit Court, and signed by the chief judge thereof. In counties containing a city of the first class, each sheriff's deputy who uses his own automobile in the performance of official duties shall be authorized an allotment for expenses incurred, up to a maximum of three hundred dollars ($300) per month, to be paid out of the fees and commissions of the sheriff's office. In all other counties with a population of ***seventy*** [~~seventy-five~~] thousand ***(70,000)*** [~~(75,000)~~] or more, the amount, if any, allowed for the necessary office expenses of each officer shall be fixed by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Department of Local Government.

(3) Each officer shall, on the first day of each month, send to the Department of Local Government a statement, subscribed and sworn to by him, showing the amount of money received or collected by or for him the preceding month, as fees or compensation for official duties, and shall, with such statements, send to the Department of Local Government the amount so collected or received. The Department of Local Government may extend the time for filing the statement and making the payment for a period not exceeding ten (10) days in any month.

(4) The salary of each officer and his deputies and assistants and his office expenses shall be paid semimonthly by the State Treasurer upon the warrant of the Department of Local Government made payable to the officer. If seventy-five percent (75%) of the amount paid into the State Treasury in any month by any of such officers is not sufficient to pay the salaries and expenses of his office for that month, the deficit may be made up out of the amount paid in any succeeding month; but in no event shall the amount allowed by the Department of Local Government to any officer for salaries and expenses exceed seventy-five percent (75%) of the amount paid to the Department of Local Government by the officer during his official term.

(5) In counties containing a city of the first class and in counties having an urban-county form of government, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by an order entered upon the order book of the Circuit Court and signed by the chief judge thereof. In all other counties with a population of ***seventy*** [~~seventy-five~~] thousand ***(70,000)*** [~~(75,000)~~] or more, the number of deputies and assistants allowed to each officer and the compensation allowed to each deputy and assistant shall be fixed at reasonable amounts upon motion of each officer by the fiscal court by an order entered upon the fiscal court order book no later than January 15 of each year. A certified copy of the orders, and of any subsequent changes made therein, shall, as soon as entered, be forwarded to the Department of Local Government.

Section 5. KRS 64.346 is amended to read as follows:

The fiscal court in counties containing a population of ***seventy thousand (70,000)*** [~~75,000~~] or over may authorize and pay out of the general fund of the county for any expenditures which, in its discretion, are deemed necessary for the efficient operation of the offices of the county and circuit court clerk, sheriff and jailer.

Section 6. KRS 64.350 is amended to read as follows:

(1) In counties having a population of ***seventy*** [~~seventy-five~~] thousand ***(70,000)*** [~~(75,000)~~] or more, the salaries of the county clerks and sheriffs and of their deputies and all necessary office expenses, including

the equipping, furnishing, maintaining and operation of the offices, shall be paid out of the State Treasury in amounts not to exceed seventy-five percent (75%) of the fees collected by the officers respectively, and received into the treasury; and twenty-five percent (25%) of the fees collected by the officers respectively, and received into the State Treasury shall be paid in the manner provided by law for the payment of other claims against the state to the fiscal courts or urban-county governments of the respective counties. The amount of twenty-five percent (25%) of the fees collected by the jailers during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties by April 1 of each year succeeding the calendar year during which the fees were received by the department for local government. The amount of twenty-five percent (25%) of the fees collected by the county clerks and sheriffs during each calendar year shall be paid to the fiscal courts or urban-county governments of the respective counties quarterly no later than April 15, July 15, October 15 and January 15. Each payment shall be for the preceding three (3) months during which fees were received by the department for local government. Adjustments necessary to insure that exactly twenty-five percent (25%) of fees collected are returned to the fiscal courts or urban-county governments shall be made in the January 15 payment. After payment of the salaries and expenses specified in this subsection, any remaining balance of the seventy-five percent (75%) of the fees collected by the officers respectively at the end of their official term shall be paid by the state treasurer to the fiscal courts or urban-county government of the respective counties, subject to the provisions of subsection (2) of this section.

(2) Notwithstanding the provisions of subsection (1) of this section, all sums received into the State Treasury and representing seventy-five percent (75%) of the fees collected by the sheriffs specified in subsection (1) of this section from any county in which a metropolitan correctional services department has been established shall be expended from the State Treasury for the payment of the salaries and costs specified in subsection (1) of this section, and in Section 106 of the Constitution of Kentucky. After payment of the salaries and costs specified in this subsection, the remaining balance representing fees collected by sheriffs shall be paid by the State Treasury to the fiscal court of the county in which a metropolitan correctional services department has been established by April 1 of each year succeeding the calendar year in which the fees were received by the Department of Local Government.

Section 7. KRS 64.355 is amended to read as follows:

It is hereby declared to be the intent of the General Assembly that all fees of the office of county clerk and sheriff in counties having a population of ***seventy thousand (70,000)*** [~~75,000~~] or more that are paid into the State Treasury pursuant to the provisions of Section 106 of the Constitution of Kentucky are the property of the respective county and these fees along with those collected by the circuit clerk shall be computed as part of the county's total tax effort for the purpose of determining credit for any federally funded program.

Section 8. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employee except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employees, but employees of county boards or commissions which are now authorized by law to fix the compensation of their employees shall not be deemed to be county employees for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the maximum amount that the officer may expend each year for expenses of his office. The fiscal court shall fix annually the maximum amount, including fringe benefits, which the officer may expend for deputies and assistants, and allow the officer to determine the number to be hired and the individual compensation of each deputy and assistant.

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court, consistent with the provisions of subsection (3) of this section, not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of ***seventy thousand (70,000)*** [~~75,000~~] or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars ($3,600) annually or three hundred dollars ($300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 9. KRS 64.690 is amended to read as follows:

(1) Except as provided in KRS 64.610 and in this section, KRS 64.480 to 64.740 are intended to supersede any existing statute, fixing the compensation, or authorizing any public officer or body to fix the compensation, of any public officer or employee covered by KRS 64.480 to 64.740.

(2) Any public officer or body which has authority to fix the compensation of any state officer or employee covered by KRS 64.640 shall exercise such authority, subject to the schedule and limits of compensation for the particular office or position prescribed under KRS 64.640.

(3) KRS 64.480 to 64.740 are not intended to supersede any existing statute, with respect to the compensation of circuit clerks, county clerks, sheriffs, master commissioners and receivers, and their deputies and assistants, in counties containing a population of ***seventy thousand (70,000)*** [~~75,000~~] or more, or property valuation administrators, their deputies and assistants, in any county.

Section 10. KRS 134.215 is amended to read as follows:

(1) An outgoing sheriff, as soon as his successor has been qualified and inducted into office and his official bond approved, shall immediately vacate his office, deliver to his successor all books, papers, records and other property held by virtue of his office, and make a complete settlement of his accounts as sheriff, except as otherwise provided in this section.

(2) All unpaid tax bills and bills upon which partial payments have been accepted in the possession of the sheriff upon the date of expiration of his term shall be turned over to the incoming sheriff, who shall collect and account for them as provided by law. The outgoing sheriff shall take a receipt from the incoming sheriff for the unpaid and partially paid tax bills. This receipt shall show in detail for each unpaid and for each partially paid tax bill the total amount due each taxing district as shown upon the tax bills. Provided, however, in counties containing a population of ***seventy thousand (70,000)*** [~~75,000~~] or over, the receipt shall show the total amount due each taxing district as shown upon the unpaid and partially paid tax bills. The receipt shall be signed and acknowledged by the incoming sheriff before the county clerk, filed with the county judge/executive, and recorded in the order book of the county judge/executive in the manner required by law for recording the official bond of the sheriff. A certified copy of the receipt as recorded in the order book of the county judge/executive shall be filed with the Revenue Cabinet. The outgoing sheriff and his bondsmen or sureties shall be relieved in securing his quietus and in the final settlement of his accounts of all responsibility for collecting and accounting for the amounts covered by the receipt and the incoming sheriff shall be charged with full responsibility for collecting and accounting for these amounts as otherwise provided by law for the collection and accounting for taxes.

(3) Each outgoing sheriff shall make a final settlement with the Revenue Cabinet and the fiscal court and taxing district of his county by March 15 immediately following the expiration of his term of office for all charges of taxes made against him and for all money received by him as sheriff and to obtain his quietus, and immediately thereafter he shall deliver these records to the incumbent sheriff.

(4) For purposes of accounting for unpaid and partially paid tax bills, either the outgoing sheriff, the incoming sheriff, or both, may, by giving advance notice by publication pursuant to KRS Chapter 424, refuse to accept payment of ad valorem taxes during any or all of that portion of their terms of office from January 1 through January 15. Irrespective of whether the office refuses to accept payment of taxes during any or all of this fifteen (15) day period, both the incoming and outgoing sheriffs shall have working access to the office facilities and to the records and mail of the sheriff's office relating to the payment, collection and refund of ad valorem taxes on property. Interest shall not be assessed or collected for the period during which payment of taxes is prohibited under the terms of this section.

(5) The outgoing sheriff shall be allowed and paid in accordance with KRS 64.140 and 64.530 the reasonable expenses actually incurred in preparing the receipt required under this section. Reasonable expenses actually incurred may include office expenses and salaries of himself, deputies and employees paid in accordance with the schedule of the previous year or the amount paid an auditor necessary in determining, verifying and recording the unpaid and partially paid tax bills turned over to the incoming sheriff.

Section 11. KRS 134.310 is amended to read as follows:

(1) The sheriff shall annually settle his accounts for county and district taxes with the fiscal court, before making settlement with the Revenue Cabinet. At the regular October term each year the fiscal court shall appoint some competent person other than the Commonwealth's or county attorney to settle the accounts of the sheriff for money due the county or district. The report of this settlement shall be filed in the county clerk's office and approved by the county judge/executive. The settlement shall show the amount of ad valorem tax collected, and an itemized statement of the money disbursed.

(2) The settlement shall be published pursuant to KRS Chapter 424. The report of the settlement shall be subject to objections by the sheriff or by the county attorney, who shall represent the state and county, and the county judge/executive shall determine the objections.

(3) Either party may institute an action in Circuit Court to correct the settlement. The settlement, when approved, shall be recorded in the county clerk's office.

(4) On the final settlement, the sheriff shall pay to the county treasurer all money that remains in his hands, and take receipts as provided in KRS 134.300.

(5) In counties containing a population of less than ***seventy*** [~~seventy-five~~] thousand ***(70,000)*** [~~(75,000)~~], the sheriff shall file annually with his final settlement:

(a) A complete statement of all funds received by his office for official services, showing separately the total income received by his office for services rendered, exclusive of his commissions for collecting taxes, and the total funds received as commissions for collecting state, county, and school taxes; and

(b) A complete statement of all expenditures of his office, including his salary, compensation of deputies and assistants, and reasonable expenses.

(6) At the time he files the statements required by subsection (5) of this section, the sheriff shall pay to the fiscal court any fees, commissions, and other income of his office, including income from investments, which exceed the sum of his maximum salary as permitted by the Constitution and other reasonable expenses, including compensation of deputies and assistants. The settlement for excess fees and commissions and other income shall be subject to correction by audit conducted pursuant to KRS 43.070 or 64.810, and the provisions of this subsection shall not be construed to amend KRS 64.820 or 64.830.

Section 12. This Act shall become effective January 1, 1994.

The Senate Amendment No. 1 to **HB 321** is as follows:

Amend printed copy of **HB 321/GA**, by changing the title to "AN ACT relating to public officials."

Representative Little moved that the House concur in the Senate Committee Substitute to **HB 321**. Agreed.

Representative Little moved that the House concur in Senate Amendment No. 1 to **HB 321**. Agreed

Representative Little moved that **HB 321**, by way of Senate Committee Substitute as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 24, 1992 roll call on **HB 321** - Appendix.)

HB 321, by way of Senate Committee Substitute as amended by the Senate, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 321**, by way of Senate Committee Substitute as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 116, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bowling moved that **SB 116** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 24, 1992 roll call on **SB 116** - Appendix.)

SB 116 was passed and the title agreed to.

Representative Bowling moved that the vote by which **SB 116** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 333, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 333** is as follows:

Amend printed copy of **HB 333/GA** on page 3, line 19, after the word "KRS" by placing brackets around and striking through "186.050" and by inserting the following: "***Chapter 186 and KRS 281.860***".

Representative McElroy moved that the House concur in Senate Amendment No. 1 to **HB 333**. Agreed.

Representative McElroy moved that **HB 333**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 68, Nays 21. (See March 24, 1992 roll call on **HB 333** - Appendix.)

HB 333, as amended by the Senate, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 333**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 434, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 434** is as follows:

Amend printed copy of **HB 434/GA** on page 2, after line 6, by adding "Section 3. KRS 288.560 is amended to read as follows:

Notwithstanding the provisions of this or any other law:

(1) A licensee may request a borrower to insure tangible personal property, except household goods, offered as security for a loan exceeding three hundred dollars ($300) under this chapter against any substantial risk of loss, damage or destruction for an amount not to exceed the actual value of such property or the approximate amount of the loan, whichever is greater, and for a term and upon conditions which are reasonable and appropriate considering the nature of the property and the maturity and other circumstances of the loan; provided such insurance is sold by a licensed agent, broker or solicitor.

(2) A licensee may also request, provide, obtain, or take as security for any loan obligation insurance on the life, ***unemployment,*** health or disability, or ***all*** [~~both~~], of the borrower, or two (2) of them if there are two (2) or more. Life insurance shall be in the approximate amount of the indebtedness scheduled to be due the licensee under the loan contract. Not more than one (1) policy of life insurance may be written in connection with any loan transaction under this chapter. The aggregate amount of periodic benefits payable by any ***unemployment,*** health or disability insurance provided, obtained or requested by the licensee in the event of ***unemployment or*** disability, as defined in the policy, shall not exceed the aggregate of the scheduled instalments and the waiting period provided in such policy must be fourteen (14) days or longer. The premium rate for insurance provided under this section shall be reasonable in relation to the benefits provided and

shall be filed with the commissioner of insurance. The commissioner of insurance shall, within thirty (30) days after the filing of any premium rate, disapprove such premium rate if it is excessive in relation to the benefits. In determining whether to approve or disapprove any premium rate, the commissioner of insurance shall give due consideration to the ***unemployment,*** mortality and morbidity costs with respect to such insurance on borrowers under this chapter or similar acts in other states, a reasonable margin for underwriting expenses and profit and contingencies to the insurer, and cost and compensation to the licensees for providing and servicing such insurance, plus the premium taxes payable on such insurance.

(3) In accepting any insurance provided for by this section as security for a loan the licensee, its officers, agents or employees may deduct the premiums or identifiable charge therefor from the proceeds of the loan, which premium or identifiable charge shall not exceed the rate filed with the commissioner of insurance and not disapproved and remit such premiums to the insurance company writing such insurance and any gain or advantage to the licensee or any employee, officer, director, agent, affiliate or associate from such insurance or its sale shall not be considered as additional or further charge in connection with any loan made under this chapter. The arranging for and collecting of an identifiable charge shall not be deemed the sale of insurance.

(4) Every insurance policy or certificate written in connection with a loan transaction pursuant to subsection (2) of this section shall provide for cancellation of coverage and a refund of the premium or identifiable charge unearned upon the discharge of the loan obligation for which such insurance is security without prejudice to any claim. Such refund shall be under a formula filed by the insurer with the commissioner of insurance.

(5) Whenever insurance is written in connection with a loan transaction pursuant to this section the licensee shall deliver or cause to be delivered to the borrower a policy, certificate or other memorandum which shall show the coverages and the cost thereof, if any, to the borrower within thirty (30) days from the date of the loan.

(6) All such insurance shall be written by a company authorized to conduct such business in this state and the licensee shall not require the purchase of such insurance from any agent or broker designated by the licensee nor shall the licensee decline existing coverages which equal or exceed the standards of this section."

Representative Lewis moved that the House concur in Senate Amendment No. 1 to **HB 434**. Agreed.

Representative Lewis moved that **HB 434**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 80, Nays 7. (See March 24, 1992 roll call on **HB 434** - Appendix.)

HB 434, as amended by the Senate, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 434**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 295, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 295** is as follows:

Amend printed copy of **HB 295** on page 8, after line 15, by adding:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 18A.225, the area development districts may jointly establish an employee benefit fund to provide for self-insurance of all risks in the provision of benefits for district employees comparable to those that may be paid under a policy or contract procured by the secretary of Finance and Administration Cabinet as provided in KRS 18A.225 (2)."

Representative Sheehan moved that the House concur in Senate Floor Amendment No. 1 to **HB 295**. Agreed.

Representative Sheehan moved that **HB 295**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 24, 1992 roll call on **HB 295** - Appendix.)

HB 295, as amended by the Senate, was passed and the title agreed to.

Representative Sheehan moved that the vote by which **HB 295**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 160**, by Representative Riggs:

Amend printed copy of **SB 160/GA** on page 3, after line 3, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Any person convicted on or after the effective date of this Act of a felony offense under KRS Chapter 510 or KRS 530.020, shall or who is in the custody of the Corrections Cabinet on the effective date of this Act under KRS Chapter 510 or KRS 530.020 may have a sample of blood taken by the Department of Corrections for DNA (deoxyribonucleic acid) law enforcement identification purpose and inclusion in law enforcement identification databases.

(2) The samples shall be obtained in a medically approved manner by a physician, registered nurse, phlebotomist, medical technician, or medical technologist, and packaged and submitted in containers provided by the Department of State Police forensic laboratory in accordance with administrative regulations promulgated by the Department of State Police forensic laboratory. No civil liability shall attach to any person authorized to draw blood as provided by this section as a result of the act of drawing blood from any person, provided the blood was drawn according to generally accepted medical procedures.

(3) Any person who tampers or attempts to tamper with any sample of blood or the container collected pursuant to subsection (1) or (2) without lawful authority shall be guilty of a Class D felony.

SECTION 3. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) A centralized database of DNA (deoxyribonucleic acid) identification records for convicted criminals, crime scene specimens, missing persons, and close biological relatives of missing persons shall be established in the Department of State Police under the direction, control, and supervision of the State Police forensic laboratory. The established system shall be compatible with the procedures set forth in a national DNA identification index to ensure data exchange on a national level.

(2) The purpose of the centralized DNA database is to assist federal, state, and local criminal justice and law enforcement agencies within and outside the Commonwealth in the identification, detection, or exclusion of individuals who are subjects of the investigation or prosecution of sex-related crimes, violent crimes, or other crimes and the identification and location of missing and unidentified persons.

(3) The Department of State Police forensic laboratory shall receive, analyze, and classify samples of blood received from the Department of Corrections in compliance with Sections 1 and 2 of this Act, and samples from other sources, and shall file the DNA results in the centralized databases for identification and statistical purposes.

(4) Records produced from the samples shall be used only for law enforcement purposes and shall be exempt from the provisions of KRS Chapter 61.

(5) A person whose DNA profile has been included in the data bank pursuant to this chapter may request expungement on the grounds that the felony conviction on which the authority for including the DNA profile was based, has been reversed and the case dismissed. The Department of State Police shall expunge all identifiable information in the data bank pertaining to the person and destroy all samples from the person upon receipt of:

(a) A written request for expungement pursuant to this section; and

(b) A certified copy of the court order reversing and dismissing the conviction.

(6) The Department of State Police forensic laboratory shall promulgate administrative regulations necessary to carry out the provisions of the DNA database identification system to include procedures for collection of samples of blood and the database system usage and integrity.

(7) Any person who disseminates, receives, or otherwise uses or attempts to use information in the database, knowing that such dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor."

Orders of the Day (Continued)

HB 277, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 277** is as follows:

HB 277, AN ACT relating to settlements of estates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 395 IS CREATED TO READ AS FOLLOWS:

(1) A fiduciary may, prior to filing a periodic or final settlement and prior to a distribution of assets, file with the court a proposed settlement. The proposed settlement shall be set for hearing and notice given as for any other settlement except that beneficiaries of the estate, other than nonresiduary legatees who have received and receipted for their legacies, shall also receive notice from the fiduciary by certified mail, return receipt requested, at least twenty (20) days prior to the hearing date. The proposed settlement shall set forth all assets and disbursements previously made; shall indicate assets on hand and anticipated to

be received subsequent to the date of the proposed settlement and prior to the filing of the periodic or final settlement; and shall further indicate the manner in which the remaining and anticipated assets are proposed to be distributed. The proposal may set forth which assets are to be distributed in kind and to whom and which assets may be liquidated for distribution of cash or for payment of debts, costs of administration, or pecuniary legacies. The proposal may also indicate claims proposed to be allowed or disallowed, in whole or in part, and may also indicate fees and commissions proposed to be paid to the fiduciary and his attorney. The inclusion of evidence and vouchers to accompany the proposal shall not be necessary unless required by the court upon exceptions filed. At the hearing, if no exceptions are filed, the proposal, if made according to law, shall be approved. If exceptions are filed, other evidence besides that reported may be heard, and the court shall, upon the whole case, reject, confirm, alter, or amend the proposal. Following the entry of an order of approval or of an order of amendment, the fiduciary shall disburse the assets in accordance therewith. Following the distribution, the fiduciary shall file a settlement accompanied by evidence and vouchers showing that distribution was effected in conformity with the court order. If it appears to the court that the distribution was in conformity, the court shall confirm the settlement and, if the settlement is final, discharge the fiduciary and his surety without further hearing or notice to any person.

(2) An aggrieved party may, no later than thirty (30) days from the entry of the order upon the proposed settlement, institute an adversary proceeding in Circuit Court pursuant to KRS 24A.120(2).

Section 2. KRS 395.620 is amended to read as follows:

(1) The District Judge shall make a written report of the settlement, showing each item of debit and credit, and the general result, and return it, with all evidence heard and vouchers filed, to the Circuit Clerk. The clerk shall note it of record, and indorse on it the time of filing, and set a date for a hearing on the report.

(2) A hearing on a settlement filed in conformity with an approved proposed settlement made under Section 1 of this Act shall not be necessary.

Representative Lewis moved that the House concur in the Senate Committee Substitute to **HB 277**. Agreed.

Representative Lewis moved that **HB 277**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 24, 1992 roll call on **HB 277** - Appendix.)

HB 277, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative Lewis moved that the vote by which **HB 277**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 605, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HB 605** is as follows:

Amend printed copy of **HB 605/GA** on page 3, line 18, after the word "Cabinet" by adding the following: "***in such manner as the cabinet may require***" and by placing a beginning bracket before the word "by" and striking through the remaining language on line 18;

lines 19 through 26, by striking through the language on lines 19 through 26;

On page 4, line 1, by deleting the new language appearing on line 1, and by striking through the existing language on line 1;

line 2 by striking through the existing language on line 2 and by placing an ending bracket after the word "interest";

On page 4, line 11, after the word "be" by adding the following: ***in the minimum amount of one thousand dollars ($1,000) or an amount equal to three (3) times the person's average monthly Kentucky malt beverage tax liability, whichever is greater. The bond shall be on a form prescribed by the cabinet and have corporate surety registered by the Department of Insurance. The person liable for the tax shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt payment by the person to the Revenue Cabinet of all malt beverage taxes due, with penalties and interest***" and by placing a beginning bracket before the word "computed" and striking through the remaining language on line 11;

line 12, by striking through the language on line 12 and placing an ending bracket after the word "section".

Representative L. Clark moved that the House concur in Senate Floor Amendment No. 1 to **HB 605**. Agreed.

Representative L. Clark moved that **HB 605**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 81, Nays 0. (See March 24, 1992 roll call on **HB 605** - Appendix.)

HB 605, as amended by the Senate, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 605**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 66, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **SB 66** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 24, 1992 roll call on **SB 66** - Appendix.)

SB 66 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **SB 66** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 583, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 583** is as follows:

Amend printed copy of **HB 583/GA** on page 2, line 4, after "***banks.***" and before "***The***" by inserting "***This section shall not apply to activities prohibited under subtitle 9 of KRS Chapter 304.***"

Representative Stumbo moved that the House concur in Senate Floor Amendment No. 2 to **HB 583**. Agreed.

Representative Stumbo moved that **HB 583**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 81, Nays 4. (See March 24, 1992 roll call on **HB 583** - Appendix.)

HB 583, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 583**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 6, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved that **SB 6** be passed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to **SB 6**. Agreed.

Representative Lear moved that **SB 6**, as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 3. (See March 24, 1992 roll call on **SB 6** - Appendix.)

SB 6, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **SB 6**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 309 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noland moved that **SB 309** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 24, 1992 roll call on **SB 309** - Appendix.)

SB 309 was passed and the title agreed to.

Representative Noland moved that the vote by which **SB 309** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 749, with Senate Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 749** is as follows:

HB 749, AN ACT relating to horse racing and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Racing Commission is created as an independent agency of state government to regulate the conduct of horse racing and pari-mutuel wagering on horse racing within the Commonwealth of Kentucky. Any program or activity previously subject to the jurisdiction of the Kentucky State Racing Commission or the Kentucky Harness Racing Commission shall be subject to the jurisdiction of the Kentucky Racing Commission on the effective date of this Act.

(2) The Kentucky Racing Commission shall consist of eleven (11) commissioners appointed by the Governor. In making appointments, the Governor shall secure broad representation within the horse industry, to include appointment of seven (7) members broadly representative of the thoroughbred industry and three (3) members broadly representative of the standardbred, quarter horse, Appaloosa, or Arabian industries. Recommendations for appointments to the commission shall be sought from various industry groups, to include the Kentucky Thoroughbred Owners and Breeders, Inc., the Kentucky Division of the Horsemen's Benevolent and Protective Association, the Kentucky Harness Horsemen's Association, and other interested organizations. An additional commissioner shall be appointed by the Governor, with this appointee having no financial interest in the business or industry regulated. For initial appointments three (3) members shall be appointed for one (1) year terms, three (3) for two (2) year terms, three (3) for three (3) year terms, and two (2) for four (4) year terms. Thereafter, all commissioners appointed by the Governor shall serve a term of four (4) years or until their successors are appointed and duly qualified. Any vacancy on the commission shall be filled pursuant to the requirements and procedures for original appointments.

(3) Commissioners shall receive fifty dollars ($50) per day for each meeting attended and shall be reimbursed for all expenses paid or incurred in the discharge of official business. The Governor shall designate one (1) of the commissioners as chairman and the commission shall elect one (1) of its members as vice chairman. Before entering upon the discharge of their duties, each commissioner shall take the constitutional oath of office.

(4) The commission shall establish and maintain a general office for the transaction of its business and may in its discretion establish a branch office or offices. The commission may hold meetings at any of its offices or at any other place when the convenience of the commission requires. All meetings of the commission shall be open and public, and all persons shall be permitted to attend meetings. A majority of the commission shall constitute a quorum for the transaction of its business or exercise of any of its powers.

(5) The duly-promulgated administrative regulations of the Kentucky State Racing Commission and the Kentucky Harness Racing Commission, in effect as of the effective date of this Act, shall remain in effect as the initial regulations of the Kentucky Racing Commission until revoked or modified by the commission.

(6) All licenses approved by, and dates awarded by, the respective commissions shall remain in effect through December 31, 1992.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) Any track licensed by the commission to conduct horse racing and desiring to establish a simulcast facility shall apply for and may receive approval from the commission for each simulcast facility. Prior to considering an application for approval of a simulcast facility, the commission shall notify by regular mail, each state senator, state representative, county judge/executive, and mayor in the jurisdiction in which the proposed simulcast facility is located, at least ten (10) days in advance of the commission meeting at which the application is to be considered or voted upon. Consideration of an application shall be based

on criteria contained in administrative regulations promulgated pursuant to KRS 230.300. Approval, if granted, shall be granted for a term of one (1) calendar year.

(2) A track or tracks may proceed with the establishment of a simulcast facility unless, within sixty (60) days of the date on which the commission approved the facility, the governing body of the local government jurisdiction in which the facility is to be located votes, by simple majority of those voting, to disapprove the establishment of the simulcast facility. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council, or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875.

(3) The commission shall not approve the establishment of any simulcast facility within a radius of fifty (50) miles of a licensed track. The commission may approve the establishment of one (1) simulcast facility within a radius of greater than fifty (50) miles but less than seventy-five (75) miles of a licensed track, but the facility shall not be approved to operate without the prior written consent of the licensed track within whose seventy-five (75) mile radius the facility is located.

(4) The commission may promulgate administrative regulations as it deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast facility.

(5) Licensed tracks conducting horse racing may enter into joint agreements to establish or operate one (1) or more simulcast facilities, on terms and conditions as the participating tracks may determine. Any agreements respecting these arrangements shall be filed with the commission, and applications for simulcast facilities shall be filed by and licenses may be issued to, these licensed tracks by the commission.

(6) A simulcast facility may be established and operated on property that is owned or leased and which is not used solely for the operation of a simulcast facility; provided however, that a simulcast facility may not be established on the premises of a lottery vendor.

(7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed pursuant to KRS 138.510, any license tax imposed pursuant to KRS 137.170, or any admission tax imposed pursuant to KRS 138.480.

(8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:

(a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.

(b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.

(9) (a) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed pursuant to KRS 138.515 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section, shall be split as follows:

1. Thirty percent (30%) shall be allocated to the host track;

2. Thirty percent (30%) to the purse program at the host track;

3. Six percent (6%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith; and

4. Thirty-four percent (34%) shall be allocated and deposited in the breeders' award fund described in Section 3 of this Act.

(b) The commission of a simulcast facility derived from interstate wagering shall be reduced by any amounts required to be paid by contract to the host track or track conducting the live race before it is divided as set forth in this section. No simulcast facility may receive any interstate simulcast except with the approval of the live Kentucky host track.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) There is created in the State Treasury and accounting system, for the use and benefit of the commission, a trust and revolving fund, to be known as the "Breeders' Award Fund," consisting of moneys allocated to the fund under the provisions of subsection (9) of Section 2 of this Act and subsection (3) of this section.

(2) The breeders' award fund shall be administered and maintained by the Breeders' Award Committee, a standing committee of the commission, comprised of five (5) commission members: the chairman of the commission, the vice chairman of the commission, and three (3) at large members of the commission appointed by the chairman for one (1) year terms. As soon as practicable after the close of each fiscal year, the Breeders' Award Committee shall disburse to thoroughbred breeders and stallion owners all moneys in the breeders' award fund on terms and based on criteria determined by the full commission and promulgated by administrative regulation. The amounts of all disbursements and the identities of all recipients of disbursements shall be reported to the full commission at the first regularly scheduled meeting succeeding the disbursements. Notwithstanding the foregoing, the committee shall, prior to making any disbursements to individual breeders, make the following allocations:

(a) Three percent (3%) of all moneys on deposit in the breeders' award fund to the commission, which shall be used by the commission for purses at harness racing events at county fairs within the Commonwealth of Kentucky that have been licensed and approved by the commission; and

(b) Seven percent (7%) of all moneys on deposit in the breeders' award fund to the Kentucky Standardbred development fund.

(3) Effective July 1, 1993, the breeders' award fund shall be guaranteed a balance of three million, seven hundred fifty thousand dollars ($3,750,000) per year. By July 15 of each year, the Revenue Cabinet shall have calculated the amount of revenue deposited in the fund during the previous fiscal year, and, if commissions from simulcast facilities are not sufficient to ensure the prescribed funding level, the difference shall be deposited in the breeders' award fund from a general fund appropriation to the commission subject to conditions set forth in the appropriations act. The Revenue Cabinet shall separately account for and report the trust and revolving fund receipts received under this provision.

Section 4. KRS 137.170 is amended to read as follows:

(1) Every person engaged in the business of conducting a race ***meeting*** [~~track~~] at which ***live horse*** races are run for stakes, purses or prizes, under the jurisdiction of the ***Kentucky*** [~~state~~] Racing Commission, shall pay a license tax to the state, as provided in subsection (2) of this section.

(2) Any [~~such~~] race track for any year commencing December 1 and ending the following November 30 for the days upon which races are actually conducted for any stake, purse or prize, shall pay a license tax based on the average daily mutuel handle for the preceding year as follows:

Average Daily Mutuel Handle	License Tax
0 - $250,000	$ 175
$250,001 [~~0~~] - $450,000	$ 500
$450,001 - $700,000	$1,000
$700,001 - $800,000	$1,500
$800,001 - $900,000	$2,000
$900,001 and above	$2,500

(3) As used in subsection (2) of this section the term "daily mutuel handle" shall be understood to mean the total gross amount of money bet or wagered by ***a race track's*** [~~its~~] patrons by means of pari-mutuel, combination, or French pools ***on live races conducted by the track.***

Section 5. KRS 137.190 is amended to read as follows:

The license tax imposed by KRS 137.170, the admission tax imposed by KRS 138.480 and the state ***taxes and contributions*** [~~tax~~] imposed by KRS 138.510 to 138.550 ***and Section 2 of this Act*** on pari-mutuel systems of betting shall be in lieu of all other license, excise, special or franchise taxes to the state or any county, city or other political subdivision. No county, city or other political subdivision may levy any license, income, excise, special or franchise tax on any such person or corporation engaged in the business of conducting a race track at which races are conducted for stakes, purses or prizes, ***or operating as a receiving track or simulcast facility,*** or on the operation or maintenance of any pari-mutuel machine or similar device, or on the money or amount of money handled by or through any pari-mutuel machine or similar device or on the sale of any merchandise during the conducting of races thereon by any such person or corporation.

Section 6. KRS 138.480 is amended to read as follows:

Each person entering the grounds or ***enclosure*** [~~inclosure~~] of any race track at which a ***live*** race meeting is being conducted under the jurisdiction of the ***Kentucky*** [~~State~~] Racing Commission, for the purpose of attending the races or for any other purpose connected therewith, shall pay a tax of fifteen cents ($0.15) to the state, except as otherwise provided in this section. If tickets good for more than one (1) day are issued, the sum of fifteen cents ($0.15) shall be paid by each person using such ticket on each day that it is used. No admission tax shall be collected from any of the employees of the race track, or any of the owners or trainers of horses, or jockeys, or their employees. The admission tax provided for in this section shall be collected by the race track from each person on entering the race track or ***enclosure*** [~~inclosure~~] on a paid or free admission. The race track shall account to and pay to the state the money so collected.

Section 7. KRS 138.510 is amended to read as follows:

(1) [~~Through June 30, 1990, an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky State Racing Commission at which betting is conducted through a pari-mutuel or other similar system and which is conducting a race meeting. The tax shall be an amount equal to four and three-fourths percent (4.75%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. From July 15, 1982, until June 30, 1990, tracks with a daily average handle of less than one million two hundred thousand dollars ($1,200,000) shall receive a tax credit amounting to three percent (3%) of money wagered, with one~~

~~and one-half percent (1.5%) to be allocated to purses, one percent (1%) to capital improvement and one-half percent (0.5%) for administration. From July 15, 1986 until June 30, 1990, tracks with a daily average handle of one million two hundred thousand dollars ($1,200,000) or more shall receive a tax credit amounting to one percent (1%) of money wagered, to be allocated to purses. All money from the tax credit allocated to purses shall be in addition to purse money allocated by contractual agreement or by regulation of the commission. All expenditures of tax credit money shall be reported to and approved by the commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the Legislative Research Commission. An amount equal to three-quarters of one percent (3/4 of 1%) of all pari-mutuel wagering shall be deducted from the tax and deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400.~~

~~(2) Through June 30, 1990, An excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky Harness Racing Commission at which betting is conducted through a pari-mutuel or other similar system and which is conducting a race meeting. The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used~~ [herein] ~~shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. An amount equal to one percent (1%) of all pari-mutuel wagering on racing under the jurisdiction of the Kentucky Harness Racing Commission shall be deducted from the tax and set aside by the Revenue Cabinet and shall be deposited in the Kentucky standardbred, quarter horse, Appaloosa and Arabian development fund created and described in KRS 230.770. From July 15, 1982, until June 30, 1990, Associations conducting a race meet under the jurisdiction of the Kentucky Harness Racing Commission with a daily average handle of less than three hundred thousand dollars ($300,000) shall receive a tax credit of three percent (3%) of all money wagered, two percent (2%) to be allocated to the associations for capital improvements, promotions, including advertising, or purses, as the association shall elect and three-quarters of one percent (0.75%) to be allocated to overnight purses and one-quarter of one percent (0.25%) to be allocated to the Kentucky standardbred, quarter horse, Appaloosa and Arabian development fund. Said expenditures shall be reported to and approved by the Harness Racing Commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the Legislative Research Commission.~~

~~(3) Effective July 1, 1990,~~] An excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky [~~State~~] Racing Commission [~~and the Kentucky Harness Racing Commission~~]. For ***each track*** [~~tracks~~] with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. ***A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30.*** For ***each track*** [~~tracks~~] with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection [~~and subsections (1) and (2) of this section~~], the daily average handle shall be computed from the amount wagered only at the host track and shall not include money wagered at a receiving track***, at a simulcast facility,*** or on telephone account wagering. Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the [~~same~~] amount ***of three quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live racing handle for harness racing*** [~~and same manner as provided for in subsections (1) and (2) of this section, termination dates in these sections notwithstanding~~].

(2)[~~(4)~~] An excise tax is imposed on ***all licensed tracks conducting*** telephone account wagering ***or*** [~~and all tracks not conducting pari-mutuel racing but~~] participating as receiving tracks in intertrack wagering under the ***jurisdiction*** [~~jurisdictions~~] of the Kentucky [~~State~~] Racing Commission. [~~and the Kentucky Harness Racing Commission. From July 15, 1988, until June 30, 1990, the tax shall be in the amount of five percent (5%) of all money wagered during the fiscal year. After June 30, 1990,~~] The tax shall be in the amount of three percent (3%) of all money wagered by ***these*** [~~such~~] methods during the fiscal year. [~~After June 30, 1990,~~] An amount equal to two percent (2%) of the amount wagered and deducted from the tax imposed in this subsection shall be deposited in the thoroughbred development fund if the host track is ***conducting a thoroughbred race meeting*** [~~under the jurisdiction of the Kentucky State Racing Commission~~], or the Kentucky standardbred, quarter horse, Appaloosa and Arabian development fund, if the host track is ***conducting a harness race meeting*** [~~under the jurisdiction of the Kentucky Harness Racing Commission~~].

(3)[~~(5)~~] Two-tenths of one percent (0.2%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in ***subsection*** [~~subsections~~] (1), [~~(2), and (3) of this section~~] and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

Section 8. KRS 138.515 is repealed, reenacted as a new section of KRS Chapter 230 and amended to read as follows:

(1) The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the [~~person, corporation or~~] association which operates a race track under the jurisdiction of the Kentucky [~~State~~] Racing Commission ***and conducts the thoroughbred racing*** at which betting is conducted through a pari-mutuel or other similar system, in races where the patron is required to select one (1) horse, and the breaks, which breaks shall be made and calculated to the dime, shall not be [~~less than fifteen percent (15%) nor~~] more than sixteen percent (16%) at the discretion of those tracks averaging over one million two hundred thousand dollars ($1,200,000) in on-track pari-mutuel handle per day of live racing conducted by the association. The commission at those tracks averaging one million two hundred thousand dollars ($1,200,000) or less in on-track pari-mutuel handle per day of live racing conducted by the association, at the discretion of such track, shall not be [~~less than sixteen and one-half percent (16.5%) nor~~] more than seventeen and one-half percent (17.5%) in races where the patron is required to select one (1) horse, and the breaks, which breaks shall be made and calculated to the dime.

(2) The commission at those tracks averaging over one million two hundred thousand dollars ($1,200,000) in on track pari-mutuel handle per day of live racing conducted by the association, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a race track under the jurisdiction of the Kentucky [~~State~~] Racing Commission ***and conducts thoroughbred racing*** at which betting is conducted through a pari-mutuel or other similar system shall not exceed nineteen percent (19%) of the gross handle in races where the patron is required to select two (2) or more horses, and the breaks, which breaks shall be made and calculated to the dime. The commission, at those tracks averaging one million two hundred thousand dollars ($1,200,000) or less in on track pari-mutuel handle per day of live racing conducted by the association, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the [~~person, corporation or~~] association which operates a race track under the jurisdiction of the Kentucky [~~State~~] Racing Commission ***and conducts thoroughbred racing*** at which betting is conducted through a pari-mutuel or other similar system shall not exceed twenty-two percent (22%) of the gross handle in races where the patron is required to select two (2) or more horses, and the breaks, which breaks shall be made and calculated to the dime.

(3) The minimum wager to be accepted by any licensed association ***may*** [~~shall~~] be ***one dollar ($1)*** [~~two dollars ($2)~~]. The minimum pay-off on a ***one dollar ($1)*** [~~two dollar ($2)~~] wager shall be ***one dollar and ten cents ($1.10)*** [~~two dollars and twenty cents ($2.20)~~]; ***but*** [~~provided, however~~], in the event of a minus pool, the minimum pay-off for a ***one dollar ($1)*** [~~two dollar ($2)~~] wager shall be ***one dollar and five cents ($1.05)*** [~~two dollars and ten cents ($2.10)~~].

(4) ***Each*** [~~The racing~~] association ***conducting thoroughbred racing and*** averaging one million two hundred thousand dollars ($1,200,000) or less in on-track pari-mutuel handle per day of live racing conducted by the association shall pay to the backside improvement fund an amount equal to one-half of [~~the~~] one percent (0.5%) of its [~~commissions derived from~~] on-track pari-mutuel wagers.

Section 9. KRS 138.530 is amended to read as follows:

(1) The Revenue Cabinet shall enforce the provisions of and collect the tax and penalties imposed and other payments required by KRS 138.510 to 138.550, and in doing so it shall have the general powers and duties granted it in KRS Chapter 131 and KRS 135.050, including the power to enforce, by an action in the Franklin Circuit Court, the collection of the tax, penalties and other payments imposed or required by KRS 138.510 to 138.550.

(2) The remittance of the tax imposed by KRS 138.510 ***and the commission from simulcast facilities to the breeders' award fund*** shall be made ***weekly*** to the Revenue Cabinet ***no later than the fifth business day, excluding Saturday and Sunday,*** [~~the next business day~~] following ***the close of*** each ***week*** [~~day~~] of racing, during each race meeting and accompanied by [~~such~~] reports as prescribed by ***the*** [~~said~~] cabinet. All [~~such~~] funds received by the Revenue Cabinet shall be paid into the State Treasury and shall be credited to the general expenditure fund.

(3) The supervisor of pari-mutuel betting appointed by the Kentucky [~~State~~] Racing Commission shall ***weekly*** [~~daily~~], during each race meeting, report to the Revenue Cabinet the total amount bet or handled the preceding ***week*** [~~day~~] and the amount of tax due the state thereon, under the provisions of KRS 138.510 to 138.550.

(4) The supervisor of pari-mutuel betting appointed by the Kentucky [~~State~~] Racing Commission or his duly authorized representatives shall, at all reasonable times, have access to all books, records, issuing or vending machines, adding machines and all other pari-mutuel equipment for the purpose of examining and checking the same and ascertaining whether or not the proper amount or amounts due the state are being or have been paid.

(5) Every person, corporation, or association required to pay the tax imposed by KRS 138.510 shall keep its books and records so as to clearly show by a separate record the total amount of money contributed to every pari-mutuel pool, including daily double pools, if any.

Section 10. KRS 230.090 is amended to read as follows:

No official timer at any ***horse*** [~~trotting or running~~] race shall announce wilfully and falsely a slower or faster time than that actually accomplished by a horse[~~, when the result of that race is to constitute a record~~].

Section 11. KRS 230.210 is amended to read as follows:

As used in ***this chapter,*** [~~KRS 230.215 to 230.361~~] unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky [~~state~~] Racing Commission under KRS 230.300 and engaged in the conduct of a recognized ***horse*** [~~thoroughbred~~] race meeting;

(2) "Commission" means the Kentucky [~~state~~] Racing Commission;

(3) "Commissioner" means a ***commissioner*** [~~member~~] of the Kentucky [~~state~~] Racing Commission;

(4) [~~"Secretary" means the secretary of the Kentucky state racing commission;~~

~~(5)~~] "Thoroughbred race or thoroughbred racing" ***means a*** [~~shall include that~~] form of horse racing in which each horse participating in ***the*** [~~such~~] race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;

(5) "Harness race" or "harness racing" means trotting and pacing races of the standardbred horses;

(6) "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in ***the*** [~~such~~] a race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey; [~~and~~]

(7) "***Horse*** [~~Thoroughbred~~] race meeting" means horse racing run [~~on the flat or over jumps~~] at an association licensed and regulated by the ***Kentucky*** [~~state~~] Racing Commission, and may include [~~both~~] thoroughbred ***and harness*** [~~racing and appaloosa~~] racing*;*

(8) "Quarter horse" means a horse that is registered with the American Quarter Horse Association of Amarillo, Texas;

(9) "Arabian" means a horse that is registered with the Arabian Horse Registry of Denver, Colorado;

(10) "Track" means any association duly-licensed by the Kentucky Racing Commission to conduct horse racing. "Track" shall include any facility or real property that is owned or purchased by a track within the same county but not contiguous to track premises, upon commission approval;

(11) "Simulcast facility" means any facility approved pursuant to the provisions of Section 2 of this Act to simulcast racing and conduct pari-mutuel wagering;

(12) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering;

(13) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track;

(14) "Interstate wagering" means pari-mutuel wagering on simulcast horse races from a track located in another state or foreign country by patrons at a receiving track or simulcast facility;

(15) "Host track" means the track conducting racing and offering its racing for intertrack wagering, or, in the case of interstate wagering, means the Kentucky track conducting racing and offering simulcasts of races conducted in other states or foreign countries;

(16) "Receiving track" means a track where simulcasts are displayed for wagering purposes. A track which submits an application for intertrack wagering shall meet all the regulatory criteria for granting an association license of the same breed as the host track, and shall have a heated and air-conditioned facility which meets all state and local life safety code requirements and seats a number of patrons at least equal to the average daily attendance for intertrack wagering on the requested breed in the county in which the track is located during the immediately preceding calendar year; and

(17) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call or by communication through other electronic media owned by the holder of the account to the track.

Section 12. KRS 230.215 is amended to read as follows:

(1) It is the policy of the Commonwealth of Kentucky, in furtherance of its responsibility to foster and to encourage legitimate occupations and industries in the Commonwealth and to promote and to conserve the public health, safety, and welfare, and it is hereby declared the intent of the Commonwealth to foster and to encourage the [~~thoroughbred~~] horse breeding industry within the Commonwealth and to encourage the improvement of the ***breeds*** [~~breed~~] of [~~thoroughbred~~] horses. Further, it is the policy and intent of the Commonwealth to foster and to encourage the business of legitimate ***horse*** [~~thoroughbred~~] racing with pari-mutuel wagering thereon in the Commonwealth on the highest possible plane. Further, it hereby is declared the policy and intent of the Commonwealth that all [~~thoroughbred~~] racing not licensed under ***this chapter*** [~~KRS 230.215 to 230.360 and Appaloosa racing not licensed under KRS 230.215 to 230.360 or 230.620 to 230.760~~]

is a public nuisance and may be enjoined as such. Further, it is hereby declared the policy and intent of the Commonwealth that the conduct of ***horse*** [~~thoroughbred~~] racing [~~or Appaloosa racing at a thoroughbred race meeting~~], or the participation in any way in ***horse*** [~~thoroughbred~~] racing [~~or Appaloosa racing at thoroughbred race meetings~~], or the entrance to or presence where ***horse*** [~~thoroughbred~~] racing [~~and Appaloosa racing~~] is conducted, is a privilege and not a personal right; and that this privilege may be granted or denied by the commission or its duly approved representatives acting in its behalf.

(2) It is hereby declared the purpose and intent of ***this chapter*** [~~KRS 230.215 to 230.360~~] in the interest of the public health, safety, and welfare, to vest in the commission forceful control of ***horse*** [~~thoroughbred~~] racing [~~and Appaloosa racing at thoroughbred race meetings~~] in the Commonwealth with plenary power to ***promulgate administrative*** [~~prescribe rules and~~] regulations ***prescribing*** [~~and~~] conditions under which all legitimate ***horse*** [~~thoroughbred~~] racing [~~and Appaloosa racing at thoroughbred race meetings~~] and wagering thereon is conducted in the Commonwealth so as to encourage the improvement of the ***breeds*** [~~breed~~] of ***horses*** [~~thoroughbreds~~] in the Commonwealth, to regulate and maintain ***horse*** [~~thoroughbred~~] racing [~~and Appaloosa racing~~] at ***horse*** [~~thoroughbred~~] race meetings in the Commonwealth of the highest quality and free of any corrupt, incompetent, dishonest, or unprincipled ***horse*** [~~thoroughbred racing or Appaloosa~~] racing practices, and to regulate and maintain ***horse*** [~~thoroughbred~~] racing [~~and Appaloosa racing~~] at [~~thoroughbred~~] race meetings in the Commonwealth so as to dissipate any cloud of association with the undesirable and maintain the appearance as well as the fact of complete honesty and integrity of ***horse*** [~~thoroughbred~~] racing [~~and Appaloosa racing~~] in the Commonwealth. In addition to the general powers and duties vested in the commission by ***this chapter*** [~~KRS 230.215 to 230.360~~], it is the intent hereby to vest in the commission the power to eject or exclude from association grounds or any part thereof any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of ***horse*** [~~thoroughbred~~] racing or interfere with the orderly conduct of ***horse*** [~~thoroughbred~~] racing [~~or Appaloosa racing~~].

Section 13. KRS 230.218 is amended to read as follows:

(1) There is hereby established, under the general jurisdiction of the Kentucky [~~State~~] Racing Commission, a Backside Improvement Commission. This commission shall consist of four (4) members, three (3) of which shall be voting members and one (1) shall be a nonvoting member. The voting members shall be as follows: one (1) member appointed by the President Pro Tempore of the Kentucky Senate, one (1) member appointed by the Speaker of the Kentucky House of Representatives, and one (1) member appointed by the chairman of the Kentucky [~~State~~] Racing Commission. The nonvoting member shall be appointed by the Kentucky division of the Horsemen's Benevolent and Protective Association. The appointee of the chairman of the Kentucky [~~State~~] Racing Commission shall serve as chairman of the Backside Improvement Commission. The members of the commission shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business.

(2) There is hereby created a trust and revolving fund for the Backside Improvement Commission, consisting of money allocated to the fund under the provisions of ***Section 8 of this Act*** [~~KRS 138.515~~], together with such other money as may be contributed to or allocated to the fund from all other sources. Money to the credit of the backside improvement fund at the end of each fiscal year shall not lapse but shall be carried forward in such fund to the succeeding fiscal year. The Backside Improvement Commission shall have the authority and may invest any and all funds received by the trust fund and interest earned by the investment of said funds in types of investments appropriate to the investment needs of the trust fund after having considered the financial return on authorized investment alternatives, the financial safety of investment alternatives and the impact of any authorized investments on the state's economy. The Backside Improvement Commission shall review the status of the trust fund investments quarterly and report its findings to the Finance and Administration Cabinet, the Kentucky [~~State~~] Racing Commission and the Legislative Research Commission.

(3) The Backside Improvement Commission shall employ [~~such~~] qualified personnel as may be required to assist the commission in carrying out the provisions of this section. ***These*** [~~Such~~] persons shall serve at the pleasure of the commission and compensation for [~~such~~] personnel shall be fixed by the commission. The

compensation of [~~such~~] personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the backside improvement fund.

(4) The purpose of the fund shall be to improve the backside of ***thoroughbred*** racing associations averaging ***one million two hundred thousand dollars ($1,200,000)*** [~~nine hundred thousand dollars ($900,000)~~] or less pari-mutuel handle per racing day ***on live racing.*** The Backside Improvement Commission shall use the backside improvement fund to promote, enhance, and improve the conditions of the backside of eligible racing associations. [~~Said~~] Conditions ***considered*** shall include but not be limited to the living and working quarters of backside employees.

(5) The Kentucky [~~State~~] Racing Commission shall ***promulgate administrative*** [~~adopt such rules and~~] regulations as may be necessary to carry out the provisions and purposes of this section.

Section 14. KRS 230.230 is amended to read as follows:

(1) The Governor shall appoint ***an executive director*** [~~a secretary~~] for the commission for a term of four (4) years [~~to run concurrently with commission appointments~~] and who may be removed in the same manner as a ***commissioner*** [~~member of the commission~~]. The ***executive director*** [~~secretary~~] shall possess the powers and perform the duties imposed upon him by ***this chapter*** [~~KRS 230.210 to 230.360~~], and such other duties as the commission may direct or prescribe. The ***executive director*** [~~secretary~~] shall ***cause to be kept*** [~~keep~~] a full record of all proceedings before the commission and shall preserve at its general office all books, maps, records, documents, licenses, and other papers of the commission. All records of the commission shall be open to inspection by the public during regular office hours.

(2) The commission may employ an assistant ***executive director*** [~~secretary~~] and stenographers, clerks, and other personnel as it may deem necessary to efficiently operate its general office or any branch thereof. The commission shall fix the compensation of ***all*** [~~such~~] employees. Any member of the commission or the ***executive director,*** [~~secretary thereof~~] or any employee referred to in this section shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the commission. The compensation of the employees referred to in this section, ***except for the executive director,*** together with reimbursement of expenses incurred by [~~such~~] employees, a member of the commission or the ***executive director*** [~~secretary thereof~~], shall be paid from commission funds.

Section 15. KRS 230.240 is amended to read as follows:

(1) In addition to the employees referred to in KRS 230.230, the commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards, and other employees deemed by the commission to be essential at or in connection with any ***horse*** [~~thoroughbred~~] race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by ***administrative regulation*** [~~rule~~] the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate ***administrative*** [~~rules and~~] regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed

under ***this chapter*** [~~KRS 230.210 to 230.360~~] in ***the*** [~~such~~] manner and in [~~such~~] proportions as the commission ***shall*** [~~may~~] by ***administrative regulation*** [~~rule~~] provide.

(3) The compensation of the employees referred to in this section shall be paid by the licensee conducting the ***horse*** [~~thoroughbred~~] race meeting in connection with which ***the*** [~~said~~] employees are utilized or employed. The salary of the ***executive director*** [~~secretary~~] to the commission shall be prorated among and paid by the various associations licensed under ***this chapter*** [~~KRS 230.210 to 230.360~~] in the manner as the commission ***shall*** [~~may~~], by ***administrative regulation*** [~~rule~~], provide. The employees referred to in this section shall be deemed employees of the commission, and are paid by the licensee or association for convenience only.

(4) Each person, as a condition precedent to the privilege of receiving a license under ***this chapter*** [~~KRS 230.210 to 230.360~~] to conduct a ***horse*** [~~thoroughbred~~] race meeting, shall be deemed to have agreed that it ***shall*** [~~will~~] pay [~~such~~] expenses and compensation as provided in this section and as may be actually and reasonably incurred.

Section 16. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of ***breeds*** [~~the breed~~] of [~~thoroughbred~~] horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of ***this chapter*** [~~KRS 230.210 to 230.360~~] including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all ***horse*** [~~thoroughbred~~] race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of ***horse*** [~~thoroughbred~~] racing [~~or Appaloosa racing~~] or interfere with the orderly conduct of ***horse*** [~~thoroughbred~~] racing or [~~Appaloosa~~] racing at ***horse*** [~~thoroughbred~~] race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employees, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that ***this chapter*** [~~KRS 230.215 to 230.374~~] and its administrative regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable administrative regulations and conditions under which [~~thoroughbred~~] horse racing [~~and Appaloosa racing~~] at a ***horse*** [~~thoroughbred~~] race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any ***horse*** [~~thoroughbred~~] race meeting;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by administrative regulation, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission; [~~and~~]

(5) The commission shall establish by ***administrative*** regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;

(6) Any of the foregoing administrative regulations***, to the extent they are promulgated, shall*** [~~and conditions may~~] be ***promulgated*** [~~altered~~], amended, ***or*** repealed ***in conformity with KRS Chapter 13A*** [~~and published from time to time. All administrative regulations and conditions shall become effective thirty (30) days after the filing thereof with the legislative research commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the legislative research~~

~~commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing~~];

(7) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to [~~such~~] witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(8) The commission shall have authority to compel any racing association licensed under ***this chapter*** [~~KRS 230.215 to 230.360~~] to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association*;*

(9) The commission shall promulgate administrative regulations establishing safety standards for jockeys, which shall include the use of rib protection equipment. Rib protection equipment shall not be included in a jockey's weight.

Section 17. KRS 230.265 is amended to read as follows:

(1) There is hereby created a panel, to be known as the Kentucky Equine Drug Research Council, to advise the commission on the conduct of equine drug research and testing commissioned by the ***Kentucky*** [~~state~~] Racing Commission. The council shall consist of nine (9) members appointed by the Governor. It is recommended that the Governor appoint one (1)veterinarian from a list of three (3) submitted by the Kentucky Association of Equine Veterinarians, one (1) horseman from a list of three (3) submitted by the Kentucky division of the Horsemen's Benevolent and Protective Association, one (1) pharmacologist from a list of three (3) submitted by the University of Kentucky, one (1) thoroughbred breeder from a list of three (3) submitted by the Kentucky Thoroughbred Owners and Breeders, Inc., one (1) legislator from a list of three (3) submitted by the Legislative Research Commission, one (1) representative of a licensed racing association chosen by the governor, one (1) member of the harness racing ***industry*** [~~commission~~] from a list of three (3) submitted by the chairman of the ***Kentucky*** [~~harness~~] Racing Commission, one (1) member from a list of three (3) submitted by the Kentucky [~~Division of the~~] Harness ***Horsemen's Association*** [~~Horsemen International~~], and one (1) member of the ***Kentucky*** [~~state~~] Racing Commission, from a list of three (3) submitted by the chairman of the ***Kentucky*** [~~state~~] Racing Commission, to serve as chairman. The council shall meet at the call of the chairman, a majority of the council or at the request of the commission. Members shall serve at the pleasure of their respective sponsoring organizations and shall receive no compensation for serving.

(2) The Kentucky Equine Drug Research Council shall review equine drug research and testing research being conducted at the University of Kentucky or with state funds and shall review and report to the commission on drug research and testing research being conducted elsewhere. The council shall advise the commission and make recommendations for establishing an effective drug regulatory policy for Kentucky racing. In addition, the council shall report to the General Assembly any needed changes regarding the regulation of drugs in ***horse*** [~~thoroughbred~~] racing in the Commonwealth of Kentucky.

(3) The commission shall receive one-tenth of one percent (.1%) of the total amount wagered ***on live racing*** in Kentucky deducted from the pari-mutuel tax levied in KRS 138.510 to be used in financing drug research and testing research in Kentucky, which shall be in addition to any funds appropriated to the commission for such purposes in the executive budget.

Section 18. KRS 230.280 is amended to read as follows:

No person shall hold or conduct any ***horse*** [~~thoroughbred~~] race meeting for any stake, purse, or reward within the commonwealth of Kentucky without securing the required license from the commission.

Section 19. KRS 230.290 is amended to read as follows:

All licenses granted under ***this chapter*** [~~KRS 230.210 to 230.360~~]:

(1) Shall be in writing;

(2) Shall be subject to all ***administrative*** [~~rules,~~] regulations and conditions as may from time to time be prescribed by the commission;

(3) Shall contain [~~such~~] conditions as may be considered necessary or desirable by the commission for purposes of ***this chapter*** [~~KRS 230.210 to 230.360~~]; and

(4) No license shall extend beyond the end of the calendar year for which it was issued, but the commission may renew any license and any [~~such~~] renewal shall not be construed to be a waiver or condonement of any violation which occurred prior to [~~such~~] renewal and shall not prevent subsequent proceedings against the licensee therefor.

Section 20. KRS 230.300 is amended to read as follows:

(1) Any person desiring to conduct ***horse*** [~~thoroughbred~~] racing [~~and Appaloosa racing~~] at a ***horse*** [~~thoroughbred~~] race meeting within the Commonwealth of Kentucky or to engage in simulcasting and intertrack wagering as a receiving track during any calendar year shall first apply to the commission for a license to do so. The application shall be filed at the commission's general office on or before June 1 with respect to applications to conduct live ***horse*** race meetings, and on or before October 1, with respect to intertrack wagering dates. The application shall specify the location of the track and the days on which racing or intertrack wagering, or both, is desired to be conducted or held and shall be in the form and contain such other information and data as the commission may, by ***administrative regulation*** [~~rule~~] require. [~~Nothing in KRS Chapter 230 shall be construed as requiring a track to obtain a license from more than one (1) commission.~~]

(2) The commission shall as soon as practicable, but in no event later than September 1 in any calendar year award dates for racing in the Commonwealth during the next year. ***In awarding dates, the commission shall consider and seek to preserve each track's usual and customary dates, as these dates are requested.*** Dates for the conduct of intertrack wagering shall be awarded as provided in KRS 230.377[~~(2)~~]. In the event scheduled racing is canceled by reason of flood, fire, or inclement weather, the commission may award after September 1 additional racing dates to make up for those dates canceled by [~~such~~] flood, fire, or inclement weather. The commission may issue ***a*** [~~such~~] license to conduct a ***horse*** [~~thoroughbred~~] race meeting to any association making the aforesaid application if the commission finds that the proposed conduct of racing by ***the*** [~~such~~] association would be in the best interest of the public health, safety, and welfare of the immediate community as well as to the Commonwealth, and if by reason of financial stability, track location, traffic flow, facilities for the public, facilities for racing participants and horses, character and reputation for honesty of all persons identified with the association, competence of proposed racing officials and association employees, absence of conflict with other race meetings in time and patronage area, sentiment of the community in which ***the*** [~~such~~] association proposes to conduct a race meeting, and capability to comply with the ***administrative*** [~~rules and~~] rulings of the commission, the licensing of ***the*** [~~such~~] association would serve to nurture, promote, develop, or improve the ***horse*** [~~thoroughbred~~] industry in the Commonwealth. As a condition precedent to the issuance of ***a*** [~~such~~] license, the commission may require a surety bond or other surety conditioned upon the payment of all taxes due the Commonwealth, together with the payment of operating expenses including purses and awards to owners of horses participating in races.

(3) Every license issued under ***this chapter*** [~~KRS 230.215 to 230.360~~] shall specify among other things the name of the person to whom issued, the address and location of the track where the ***horse*** [~~thoroughbred~~] race meeting to which it relates is to be held or conducted, and the days and hours of the day when the meeting will be permitted; provided, however, that no track which is granted overlapping dates for the conduct

of a live race meeting with another ***horse*** [~~thoroughbred or harness~~] racing track within a fifty (50) mile radius shall be permitted to have a post time after 5:30 p.m., prevailing time for overlapping days between July 1 and September 15, unless agreed to in writing by the tracks affected.

(4) A license issued under this section is neither transferable nor assignable and shall not permit the conduct of a ***horse*** [~~thoroughbred~~] race meeting at any track not specified therein. However, if the track specified becomes unsuitable for [~~thoroughbred racing or Appaloosa~~] racing because of flood, fire, or other catastrophe, the commission may, upon application, authorize the meeting, or any remaining portion thereof, to be conducted at any other suitable track available for that purpose, provided that the owner of ***the*** [~~such~~] track willingly consents to the use thereof.

(5) ***Horse*** [~~Thoroughbred~~] racing dates may be awarded and licenses issued authorizing ***horse*** [~~thoroughbred~~] racing [~~and Appaloosa racing at a thoroughbred race meeting~~] on any day of the year. ***Horse*** [~~Thoroughbred~~] racing [~~or Appaloosa racing at thoroughbred race meetings~~] shall be held or conducted only between sunrise and midnight.

(6) The commission may at any time require the removal of any official or employee of any association in those instances where it has reason to believe that the official or employee has been guilty of any dishonest practice in connection with ***horse*** [~~thoroughbred~~] racing [~~or Appaloosa racing at a thoroughbred race meeting~~] or has failed to comply with any condition of his license or has violated any law or any ***administrative*** [~~rule or~~] regulation of this commission.

(7) Every ***horse*** [~~thoroughbred~~] race not licensed under this section [~~or Appaloosa race not licensed by this section or KRS 230.620 to 230.760~~] is hereby declared to be a public nuisance and the commission may obtain an injunction against the same in the Circuit Court of the county where the unlicensed race is proposed to take place.

Section 21. KRS 230.310 is amended to read as follows:

Every person not required to be licensed under KRS 230.300 who desires to participate in ***horse*** [~~thoroughbred~~] racing [~~or Appaloosa racing at a thoroughbred race meeting~~] in the Commonwealth as a horse owner, trainer, jockey, apprentice jockey, agent, stable employee, racing official, association employee, or employee of a person or concern contracting with the association to provide a service or commodity and which requires their presence on association grounds during a race meeting, or veterinarian, farrier, horse dentist, or supplier of food, tack, medication, or horse feed, shall first apply to the commission for a license to participate in ***the*** [~~such~~] activity on association grounds during a race meeting. No person required to be licensed by this section may participate in any activity required to be licensed on association grounds during a race meeting without a valid license therefor. An applicant for a license shall submit to the commission fingerprints as may be required and [~~such~~] other information [~~as may be~~] necessary and reasonable for processing a license application. The commission is authorized to exchange fingerprint data with the Kentucky state police and the Federal Bureau of Investigation in order to conduct a criminal history background check of an applicant. The commission may issue a license if it finds that the financial responsibility, age, experience, reputation, competence, and general fitness of the applicant to perform the activity permitted by a license, are consistent with the best interest of racing and the maintenance of the honesty, integrity, and high quality thereof. ***A*** [~~Such~~] license shall be issued for the calendar year in which it is issued and may be renewed by the commission. The license shall be valid at all ***horse*** [~~thoroughbred~~] race meetings in the Commonwealth during the period for which it is issued unless suspended or revoked under the ***administrative*** [~~rules and~~] regulations ***promulgated*** [~~prescribed~~] by the commission under this chapter. ***With respect to horse owners and trainers, the commission may promulgate administrative regulations to facilitate and promote uniform, reciprocal licensing with other states.***

Section 22. KRS 230.320 is amended to read as follows:

(1) Every license granted under ***this chapter*** [~~KRS 230.210 to 230.360~~] is subject to revocation or suspension by the commission in any case where it has reason to believe that any provision of ***this chapter, administrative*** [~~KRS 230.210 to 230.374 or rule,~~] regulation, or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of [~~thoroughbred~~] horse racing [~~and Appaloosa horse racing~~] may ***promulgate*** [~~prescribe~~] administrative regulations under which any license may be denied, suspended, or revoked.

(2) Any person alleged to have committed a violation under subsection (1) of this section may request a stay of imposition of the stewards' sanction. Pending appeal, a hearing on ***the*** [~~such~~] request for stay shall be held within forty-eight (48) hours of the receipt of the request for a stay by the commission. ***If*** [~~In the event~~] the commission is not able to hold a hearing within forty-eight (48) hours, the stay shall be automatically granted. It shall be the policy of the commission to grant stays, unless:

(a) In any case where a licensee is alleged to have committed a flagrant violation of the prescribed administrative regulations of racing which presents a clear and present danger to the immediate integrity of racing,[~~;~~] and

(b) Wherein it is impossible for the commission to secure necessary scientific evidence or indispensable witnesses within forty-eight (48) hours, then the commission or its designated hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial stewards' determination of a violation.

(3) If any license is denied, suspended, or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of ***the*** [~~such~~] reasons to be made on its record book. The action of the commission in denying, suspending, or revoking any license issued under ***this chapter*** [~~KRS 230.210 to 230.360~~] is final except that such action is subject to review by any court of competent jurisdiction. The action of the commission shall remain in full force and effect until reversed or modified by a valid order of ***the*** [~~such~~] court.

Section 23. KRS 230.355 is amended to read as follows:

(1) Any hearing authorized or required by ***this chapter*** [~~KRS 230.210 to 230.360~~] may be conducted by the commission, or may be conducted by a hearing officer appointed by the commission to serve in its place. [~~Such~~] A hearing shall be conducted in the name of the commission at any time or place designated by the chairman. The hearing officer may, in receiving evidence on behalf of the commission, make [~~such~~] rulings affecting the competency, relevancy, and materiality of evidence to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case. The commission may require the entire record to be certified to it for initial decision, and the hearing officer shall submit written findings of fact, conclusions of law and recommendations which shall be incorporated in and become a part of the record. In the absence of a requirement by the commission that a record be certified to it for initial decision, the hearing officer shall render a decision, and in the absence of either an appeal to the commission, or a review upon motion of the commission, the hearing officer's decision shall become the decision of the commission.

(2) A hearing officer may be a full-time employee, serve by contract, or be paid upon a per diem basis in the discretion of the commission.

Section 24. KRS 230.360 is amended to read as follows:

[~~(1) KRS 230.215 to 230.360 are not applicable to trotting or pacing meets or races conducted in this state nor to Appaloosa racing, quarter horse racing and Arabian racing licensed under KRS 230.620 to 230.760.~~]

~~(2)~~] The provisions of ***this chapter*** [~~KRS 230.215 to 230.360~~] are intended to be statewide and exclusive in their effect and no city, county, or other political subdivision of state government shall have the power or authority to make or enforce any local laws, ordinances, or regulations on the subject of ***horse*** [~~thoroughbred~~] race meetings. Any person licensed under KRS 230.300 shall continue to pay, or be responsible for the payment of, all state taxes presently imposed by law, including but without limitation, license taxes imposed under KRS 137.170 to 137.190, and KRS 137.990 together with admission taxes imposed by KRS 138.480, and the pari-mutuel taxes imposed by KRS 138.510 to 138.550, and all state, as well as local, ad valorem taxes; provided, however, no tax shall be imposed by the state or any subdivision thereof upon, or measured by, that portion of the excise tax imposed upon pari-mutuel betting at running and trotting horse race tracks which is collected and retained by the operators thereof under the provisions of KRS 138.510 to 138.550, both inclusive.

Section 25. KRS 230.361 is amended to read as follows:

(1) The commission shall ***promulgate administrative regulations*** [~~adopt rules~~] governing and regulating mutuel wagering on ***horse*** [~~thoroughbred~~] races [~~and Appaloosa races at a thoroughbred race meeting~~] under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under ***this chapter*** [~~KRS 230.215 to 230.360~~] to conduct a [~~thoroughbred~~] race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(3) All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at ***horse*** [~~thoroughbred~~] race meetings shall be presumed abandoned if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

(4) The commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps; provided that all proceeds from such wagering, after expenses are deducted, be used for charitable purposes. If the dates requested for such a license have been granted to a track within a forty (40) mile radius of the race site, the commission may not issue a license until it has received written approval from the affected track. Pari-mutuel wagering licensed and approved under this subsection shall be limited to four (4) days per year. All racing and wagering authorized by this subsection shall be conducted in accordance with applicable administrative regulations of the commission.

Section 26. KRS 230.370 is amended to read as follows:

The commission may promulgate any reasonable and necessary ***administrative regulation*** [~~rules~~] for the enforcement of these provisions and hearings held before it.

Section 27. KRS 230.374 is amended to read as follows:

All sums reported and paid to the commission under the provisions of KRS 230.361 to 230.373***, with the exception of funds paid under KRS 230.398,*** shall be paid by the commission to the Kentucky Racing Health and Welfare Fund, Inc., a nonprofit charitable corporation, organized for the benefit, aid, assistance, and relief of ***thoroughbred*** owners, trainers, jockeys, valets, exercise boys, grooms, stable attendants, pari-mutuel clerks, and other ***thoroughbred*** racing personnel employed in connection with racing, and their wives and children, who can demonstrate their need for financial assistance connected with death, illness, or off-the-job injury and are not otherwise covered by union health and welfare plans, workers' compensation, social security, public welfare, or any type of health, medical, death, or accident insurance. ***These*** [~~Said~~] sums shall be paid on or before December 31 in each year, provided that no payments shall be made by the commission to the Kentucky Racing Health and Welfare Fund, Inc., unless the commission and the Auditor of Public Accounts are satisfied that the fund is in all respects being operated for the charitable and benevolent purposes as set forth above and that no part of the funds paid to the fund by the commission or any net earnings of the fund inure to the benefit of any private individual, director, officer, or member of the fund or any of the persons who turned over sums to the commission representing unclaimed pari-mutuel tickets.

Section 28. KRS 230.377 is amended to read as follows:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track may apply to ***the*** [~~its respective~~] commission [~~of jurisdiction~~] for simulcasting and intertrack wagering dates. Applications shall be submitted in accordance with KRS 230.300 [~~and 230.690~~]. ***The commission shall not approve the establishment or relocation of a receiving track within a radius of seventy-five (75) miles of a race track duly licensed as of July 15, 1992, without the prior written consent of the licensed track within whose seventy-five (75) mile radius the new receiving track would be located.***

(2) On or before November 1 of each year, the [~~Kentucky State Racing~~] commission [~~and the Kentucky Harness Racing Commission~~] shall meet [~~in joint session~~] and award [~~simulcasting and~~] intertrack wagering dates ***to all tracks*** for the entire succeeding calendar year.[~~, including dates for which a track has exercised its right of first refusal as follows: Except as provided in subsection (5) of this section,~~] In counties containing more than one (1) track, ***intertrack wagering dates shall be awarded as follows:***

(a) A receiving track of the same breed as the host track's breed [~~each track~~] shall have the right [~~of first refusal~~] to receive***, on an exclusive basis,*** [~~at least~~] sixty percent (60%) of the available intertrack wagering days, which shall not include the days in subsection (4) of this section, [~~of host tracks of the same breed as the receiving track~~] if the receiving track was licensed to conduct racing of that breed on or before January 1, 1990***; and***

(b) A receiving track of a different breed than the breed of the host track shall receive on an exclusive basis the remaining forty percent (40%) of the intertrack wagering dates not awarded by the commission under subsection (2)(a) of this section, and exclusive of days contained in subsection (4) of this section, if the receiving track was licensed to conduct racing of a different breed on or before January 1, 1990. Any unused intertrack wagering days or any intertrack wagering days not requested by and awarded to a receiving track of a different breed than the breed of the host track, shall be awarded to the receiving track of the same breed as the breed of the host track.

(3) Except in extraordinary circumstances, such as the need to accommodate a receiving track's sales activities or special events, intertrack wagering dates shall be awarded in weekly increments. The commission shall approve no more than nine (9) tracks for participation in intertrack wagering. Any approval by the commission of a change in location of these tracks shall be subject to the local-approval process contained in Section 2 of this Act [~~Each track shall request the intertrack wagering dates which it desires in its application for intertrack wagering dates. The commissions shall approve no more than nine (9) tracks for participation in intertrack wagering. Each commission shall have one (1) vote. Each commission shall poll its members and a simple majority of members present and voting shall determine the vote of each commission. In the event a decision cannot be reached as to the balance of dates to be awarded, the Governor shall appoint an impartial arbitrator to resolve the impasse.~~

~~(3) For the balance of calendar year 1990 after March 30, 1990, the commissions shall award simulcasting and intertrack wagering dates in the following manner: tracks shall make application for 1990 dates within two (2) weeks of March 30, 1990. Within two (2) weeks following the application deadline, the commissions shall award dates. Dates awarded for 1990 shall not, however, abridge any contractual agreements entered into prior to March 30, 1990~~].

(4) A track may by ***administrative*** regulation be required to simulcast its races to one (1) or more receiving tracks approved for simulcasting and intertrack wagering, as a prerequisite for the issuance of a license pursuant to KRS 230.300 [~~and 230.690~~], provided that:

(a) Each track shall be permitted to exempt one (1) day of racing from simulcasting ***to both receiving tracks and simulcast facilities***, at its discretion;

(b) Tracks in a county containing a city of the first class and tracks in an urban-county government shall not be required to simulcast to one another or to any other facility in those counties. This provision shall not be construed as requiring tracks within the same county to simulcast to one another; and

(c) In the absence of a contract between a host track and a receiving track, the commission shall be split as provided for in KRS 230.378(3).

[~~(5) In a county with a population of less than one hundred fifty thousand (150,000) people and containing more than one (1) track, the track which conducts racing of the same breed as a host track shall have an exclusive right of first refusal for the simulcasts of such races. If the track conducting racing of the same breed does not receive the simulcasts, the other track in the county may do so and all tracks may receive the simulcasts if agreed to in writing by the tracks affected.~~]

(5)[~~(6)~~] A track ***licensed to conduct thoroughbred racing*** may receive simulcasts ***and conduct interstate wagering on all thoroughbred horse races designated as graded stakes races by the Graded Stakes Committee of the Thoroughbred Owners and Breeders Association, Inc., without further consents or approvals. A track licensed to conduct harness racing may receive simulcasts and conduct interstate wagering on all harness horse races with a purse in excess of seventy-five thousand dollars ($75,000) without further consents or approvals. A track which applies to the commission to receive an interstate race of a different breed than the breed for which it is licensed by the commission shall receive any simulcast of an interstate race through the intertrack wagering system upon approval by the commission. A track may also receive simulcasts*** of special event races conducted in other states or foreign countries which are determined by the commission [~~of jurisdiction~~] to be of sufficient national or international significance or interest to warrant interstate wagering ***and if the simulcast of these races has been approved by the Kentucky Thoroughbred Owners and Breeders Association, Inc., the Kentucky Division of the Horseman's Benevolent and Protective Association, for thoroughbred races, and the Kentucky Harness Horsemen's Association for harness racing, and any track conducting live horse races of the same breed at the same time as the simulcast race***. All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6)[~~(7)~~] ***The*** [~~Each~~] commission [~~of jurisdiction~~] may promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack wagering and regulating the conditions under which [~~such~~] wagering shall be held and conducted. Administrative regulations shall provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All administrative regulations shall be in conformity with the provisions of KRS 138.510 ***and this chapter***[~~, 230.260, 230.320, 230.361, 230.374 to 230.379, 230.622, 230.750 and 230.770~~].

(7) Subsections (2) and (3) of this section shall apply only to intertrack wagering dates awarded for calendar year 1993 and thereafter, and any unresolved intertrack wagering dates for calendar year 1992 shall be awarded pursuant to applicable provisions of law in effect immediately prior to the effective date of this Act.

Section 29. KRS 230.378 is amended to read as follows:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting or conduct intertrack wagering. A receiving track may accept wagers through a telephone account wagering system. Wagers at a receiving track, ***simulcast facility,*** or on telephone account wagering shall form a common

pool with wagers at a host track. This common pool requirement shall not apply to wagers made in connection with interstate simulcasting pursuant to subsection ***(5)***[~~(6)~~] of KRS 230.377***; however, common pools shall be encouraged.***

(2) The commission of a receiving track***, simulcast facility,*** or on telephone account wagering shall be the same as the commission of the host track as determined in KRS 138.515 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows: twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract.

(4) The deduction for the backside improvement fund, as provided for in KRS 138.515(4) and the deduction for equine drug research provided for in KRS 230.265(3), shall not apply to the commission or pari-mutuel tax of a receiving track or telephone account wagering.

(5) A receiving track shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by statute or regulation by the commission [~~of jurisdiction~~].

Section 30. KRS 230.379 is amended to read as follows:

(1) A track may engage in telephone account wagering, ***if*** [~~provided that all telephone calls to place wagers be made to a location within the track enclosure, and provided that~~] all moneys used to place telephone account wagers ***are*** [~~be~~] on deposit in an amount sufficient to cover the wagers at the track where the account is opened. All moneys wagered by telephone account wagering shall be subject to the applicable pari-mutuel tax levied in KRS 138.510 and shall form a common pool with other pari-mutuel pools at the track for each posted race. The commission [~~of jurisdiction~~] shall have authority to promulgate necessary and reasonable administrative regulations to regulate the conduct of telephone account wagering, including regulations for the deposit of funds by credit or debit cards or other means of electronic funds transfer.

(2) A track shall accept and tabulate a telephone account wager only from the holder of a telephone wagering account. No person shall directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for a holder of a telephone wagering account. No person shall in any manner place a wager through telephone account wagering, on behalf of a holder of a telephone wagering account. Only the holder of a telephone wagering account shall place a telephone wager. Any person violating this subsection shall be guilty of a class A misdemeanor.

(3) Telephone account wagering conducted in accordance with the provisions of this section shall not be considered a violation of KRS 528.110.

Section 31. KRS 230.398 is amended to read as follows:

All sums reported and paid to the commission under the provisions of KRS ***230.361 to 230.373 by any licensee conducting a harness race meeting*** [~~230.386~~ ~~or~~ ~~230.387~~] shall be used by it for purses at harness racing events at county fairs within the Commonwealth of Kentucky that have been licensed and approved by it. The commission shall have the authority to ***promulgate administrative*** [~~adopt rules and~~] regulations as may be necessary for the conduct of ***these*** [~~such~~] races.

Section 32. KRS 230.400 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky [~~State~~] Racing Commission, designated as the Kentucky thoroughbred development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with [~~such~~] other money [~~as may be~~] contributed to or allocated to the fund from all other sources. Money to the credit of the Kentucky thoroughbred development fund shall be distributed by the Treasurer for the purposes ***of this section*** [~~herein provided~~] upon authorization of the Kentucky [~~State~~] Racing Commission and upon approval of the secretary of the Finance and Administration Cabinet. Money from the Kentucky thoroughbred development fund shall be allocated to each licensed association in an amount equal to the amount the association contributed to the fund. Money to the credit of the Kentucky thoroughbred development fund at the end of each fiscal year shall not lapse, but shall be carried forward in such fund to the succeeding fiscal year.

(2) There is hereby established, under the general jurisdiction of the Kentucky [~~State~~] Racing Commission, a Kentucky Thoroughbred Development Fund Advisory Committee. The advisory committee shall consist of five (5) members, all of whom shall be residents of Kentucky, to be appointed by the chairman of the Kentucky [~~State~~] Racing Commission by July 1 of each year. The committee shall consist of two (2) thoroughbred breeders recommended by the Kentucky Thoroughbred Owners and Breeders, Inc.; one (1) thoroughbred owner recommended by the Kentucky division of the Horsemen's Benevolent and Protective Association; one (1) officer or director of a licensed association conducting thoroughbred racing in Kentucky, recommended by action of all of the licensed associations conducting thoroughbred racing in Kentucky; and one (1) member of the Kentucky [~~State~~] Racing Commission. If any member other than the commission member has not been recommended for appointment by July 1 of each year, the chairman of the Kentucky [~~State~~] Racing Commission shall make an appointment for the organization or organizations failing to [~~so~~] recommend a member of the committee. The members of the advisory committee shall serve without compensation, but shall be entitled to reimbursement for all expenses incurred in the discharge of official business. The advisory committee shall select from its membership annually a chairman and a vice chairman.

(3) (a) The Kentucky Thoroughbred Development Fund Committee shall advise and assist the Kentucky [~~State~~] Racing Commission in the development of the supplemental purse program provided herein for Kentucky bred thoroughbreds, shall make recommendations to the commission from time to time with respect to the establishment of guidelines, ***administrative*** [~~rules and~~] regulations for the provision of [~~such~~] supplemental purses, the amount thereof, the races for which ***the*** [~~such~~] purses are to be provided and the conditions thereof, manner and method of payment of [~~such~~] supplemental purses, registry of thoroughbred stallions standing within the Commonwealth of Kentucky, registry of Kentucky bred thoroughbreds for purposes of this section, nature and type of forms and reports to be employed and required in connection with the establishment, provision for, award and payment of [~~such~~] supplemental purses, and with respect to all other matters necessary in connection with the carrying out of the intent and purposes of this section.

(b) The Kentucky [~~State~~] Racing Commission shall employ [~~such~~] qualified personnel as may be required to assist the commission and the advisory committee in carrying out the provisions of this section. ***These*** [~~Such~~] persons shall serve at the pleasure of the commission and compensation for ***these*** [~~such~~] personnel shall be fixed by the commission. The compensation of ***these*** [~~such~~] personnel and the necessary expenses incurred by the commission or by the committee in carrying out the provisions of this section shall be paid out of the Kentucky thoroughbred development fund.

(4) The Kentucky [~~State~~] Racing Commission, with the advice and assistance of the Kentucky Thoroughbred Development Fund Advisory Committee, shall use the Kentucky thoroughbred development fund to promote, enhance, improve and encourage the further and continued development of the thoroughbred breeding industry in Kentucky by providing, out of the Kentucky thoroughbred development fund, supplemental purses for designated stakes, handicap, allowance, and nonclaiming maiden races contested at licensed thoroughbred race meetings in Kentucky, the awarding and payment of which supplemental purses shall be conditioned upon the winning or placing in ***designated*** [~~such~~] races by Kentucky bred thoroughbred horses. Any supplemental purse provided for a designated race shall be apportioned among the winning and placing horses in the same proportion as the stake or purse provided for ***the*** [~~such~~] race by the racing association. Winning or placing as used in this section shall include those horses finishing first, second, third and fourth in ***the*** [~~such~~] races. That portion of the supplemental purse provided for any [~~such~~] designated race for a winning or placing

finish shall be awarded and paid to the owner of the horse so finishing only if ***the*** [~~such~~] horse is a Kentucky bred thoroughbred duly registered [~~as such~~] with the official registrar. Any portion of the supplemental purse which is not awarded and paid over shall be returned to the Kentucky thoroughbred development fund.

(5) (a) For purposes of this section, the term Kentucky thoroughbred stallion shall mean and include only a thoroughbred stallion standing the entire breeding season in Kentucky and registered as a Kentucky thoroughbred stallion with the official registrar of the Kentucky thoroughbred development fund.

(b) Except for thoroughbred horses foaled prior to January 1, 1980, the term Kentucky bred thoroughbreds for purposes of this section, shall mean and include only thoroughbred horses sired by Kentucky thoroughbred stallions foaled in Kentucky and registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(c) Any thoroughbred horse foaled prior to January 1, 1980, may qualify as a Kentucky bred thoroughbred for purposes of this section if ***the*** [~~such~~] horse was foaled in Kentucky and if the sire of ***the*** [~~such~~] thoroughbred was standing at stud within Kentucky at the time of conception of such thoroughbred, provided ***the*** [~~such~~] thoroughbred is duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund.

(d) In order for an owner of a Kentucky sired thoroughbred to be eligible to demand, claim and receive a portion of a supplemental purse provided by the Kentucky thoroughbred development fund, the thoroughbred horse winning or placing in a designated race for which a supplemental purse has been provided by the Kentucky thoroughbred development fund must have been duly registered as a Kentucky bred thoroughbred with the official registrar of the Kentucky thoroughbred development fund prior to entry in ***the*** [~~such~~] race.

(6) (a) Kentucky Thoroughbred Owners and Breeders, Inc., is hereby recognized and designated as the sole official registrar of the Kentucky thoroughbred development fund for the purposes of registering Kentucky thoroughbred stallions and Kentucky bred thoroughbreds in accord with the terms of this section and ***any administrative*** [~~such rules and~~] regulations [~~as may be~~] promulgated by the Kentucky [~~State~~] Racing Commission. When a Kentucky bred thoroughbred is registered with the official registrar, the registrar shall be authorized to stamp the Jockey Club certificate issued for ***the*** [~~such~~] thoroughbred with the seal of the registrar, certifying that the [~~said~~] thoroughbred is a duly qualified and registered Kentucky bred thoroughbred for purposes of this section. The registrar may establish and charge, with the approval of the commission, reasonable registration fees for its services in the registration of Kentucky thoroughbred stallions and in the registration of Kentucky bred thoroughbreds. Registration records of the registrar shall be public records and open to public inspection at all normal business hours and times.

(b) Any interested party aggrieved by the failure or refusal of the official registrar to register a stallion or thoroughbred as a Kentucky stallion or as a Kentucky bred thoroughbred shall have the right to file with the commission, within thirty (30) days of such failure or refusal of the registrar, petition seeking registration of ***the*** [~~such~~] thoroughbred. The commission shall promptly hear the matter de novo and issue its order directing the official registrar to register or not to register as it may be determined by the commission.

(7) The Kentucky [~~State~~] Racing Commission shall ***promulgate administrative*** [~~adopt such rules and~~] regulations as may be necessary to carry out the provisions and purposes of this section, including the ***promulgation of administrative regulations*** [~~adoption of such rules~~] and forms as may be appropriate for the proper registration of Kentucky stallions and Kentucky bred thoroughbreds with the official registrar, and shall administer the Kentucky bred thoroughbred program created hereby in a manner best designed to promote and aid in the further development of the thoroughbred breeding industry in Kentucky, to upgrade the quality of thoroughbred racing in Kentucky and to improve the quality of thoroughbred horses bred in Kentucky.

Section 33. KRS 230.443 is amended to read as follows:

No quarter horse or Appaloosa foaled by artificial insemination shall be eligible to race under the provisions of ***this chapter*** [~~KRS 230.620 to 230.760~~], but Arabian horses foaled by artificial insemination shall be eligible to race under the provisions of ***this chapter*** [~~KRS 230.620 to 230.760~~].

Section 34. KRS 230.750 is amended to read as follows:

[~~(1)~~] The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a ***harness*** horse track under the jurisdiction of the commission at which betting is conducted through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of the gross amount handled on straight wagering pools and twenty-five percent (25%) of the gross amount handled on multiple wagering pools, plus the breaks, which shall be made and calculated to the dime. Multiple wagering pools shall include daily double, perfecta, double perfecta, quinella, double quinella, trifecta, and other types of exotic betting. [~~Effective July 1, 1990,~~] An amount equal to three percent (3%) of the total amount wagered and included in the commission of a ***harness*** host track shall be allocated by the ***harness*** host track in the following manner. Two percent (2%) shall be allocated to the host for capital improvements, promotions, including advertising, or purses, as the host track shall elect. Three-quarters of one percent (3/4 of 1%) shall be allocated to overnight purses. One-quarter of one percent (1/4 of 1%) shall be allocated to the Kentucky standardbred, quarterhorse, Appaloosa, and Arabian development fund. ***This*** [~~Such~~] allocation shall be made after deduction from the commission of the pari-mutuel tax but prior to any other deduction, allocation or division of the commission.

[~~(2) Each racing association licensed by the Kentucky Harness Racing Commission shall pay an amount equal to one-half of one percent (1/2 of 1%) of its commissions into a revolving fund to be known as the harness backside improvement fund, and created herein. The provisions of this subsection shall not, however, apply to any association which does not own its backside as of March 30, 1990. Moneys deposited to the fund shall be allocated back to racing associations in the same percentage paid in, for projects and programs to promote, enhance, and improve the condition of association backsides. The commission shall approve any backside improvement project financed in whole or in part by backside improvement funds.~~]

Section 35. KRS 230.760 is amended to read as follows:

No licensee conducting a race or meet hereunder, no member of the commission, judge, or assistant official appointed to act as such pursuant to ***this chapter*** [~~KRS 230.610 to 230.760~~], shall be liable for damages to any person, association, or corporation for any cause whatsoever arising out of or from the performance by ***the*** [~~such~~] licensee, commissioner, judge or assistant official of his duties and the exercise of his discretion with respect thereto, so long as he acted in good faith, without malice or improper motive.

Section 36. KRS 230.770 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky [~~harness~~] Racing Commission, designated as the Kentucky standardbred, quarter horse, Appaloosa and Arabian development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with ***any*** [~~such~~] other money [~~as may be~~] contributed to or allocated to the fund from all other sources. For the purposes of this section, "development fund" or "fund" means the Kentucky standardbred, quarter horse, Appaloosa and Arabian development fund. Money to the credit of the development fund shall be distributed by the Treasurer for the purposes [~~herein~~] provided ***in this section,*** upon authorization of the Kentucky [~~Harness~~] Racing Commission and upon approval of the secretary of the Finance and Administration Cabinet. Money to the credit of the fund at the end of each fiscal year shall not lapse, but shall be carried forward in the fund to the succeeding fiscal year.

(2) The Kentucky [~~Harness~~] Racing Commission shall use the development fund to promote races, and to provide purses for [~~such~~] races, for horses sired by stallions standing

within the Commonwealth of Kentucky or as provided in subsection (2)(b) of this section. For purposes of this section, the term stallions standing within the Commonwealth of Kentucky shall include only stallions standing the entire breeding season within the Commonwealth of Kentucky and registered [~~as such~~] with the Kentucky [~~Harness~~] Racing Commission.

(a) The commission shall provide for distribution of money to the credit of the development fund to persons, corporations or associations operating licensed standardbred race tracks within Kentucky on an equitable basis, for the purpose of conducting separate races for two and three year old fillies and colts, both trotting and pacing, sired by standardbred stallions standing within the Commonwealth of Kentucky at the time of conception [~~thereof~~].

Notwithstanding other provisions hereof, a filly or colt foaled prior to January 1, 1978 shall be eligible to participate in races, a part of the purse for which is provided by money of the development fund, if the sire of ***the*** [~~such~~] filly or colt was standing at stud within the Commonwealth of Kentucky at the time of conception [~~of such filly or colt~~].

(b) The commission shall provide for distribution of money to the credit of the development fund to persons, corporations or associations operating licensed racetracks within Kentucky conducting quarter horse, Appaloosa or Arabian racing, on an equitable basis as determined by the commission.

(3) Money distributed from the development fund to licensed standardbred race tracks within the Commonwealth shall be used exclusively to promote races and provide purses for races conditioned to admit only standardbred colts and fillies sired by standardbred stallions standing within the Commonwealth of Kentucky.

(4) The Kentucky [~~Harness~~] Racing Commission shall fix the amount of money to be paid from the development fund to be added to the purse provided for each race by the licensed operator of the race track; shall fix the dates and conditions of races to be held by licensed race tracks; and shall ***promulgate*** [~~adopt~~] administrative regulations necessary to carry out the provisions of this section. Money from the fund shall be allocated to each breed of horse represented in the fund in an amount equal to the amount the breed has contributed to the fund.

(5) The Kentucky [~~Harness~~] Racing Commission may ***promulgate*** [~~adopt~~] administrative regulations necessary to determine the eligibility of horses for entry in races for which a portion of the purse is provided by money of the development fund, including administrative regulations for the registration of stallions standing within Kentucky and progeny thereof, including registration of progeny of the stallions foaled prior to June 19, 1976.

(6) The Kentucky [~~Harness~~] Racing Commission shall appoint qualified personnel necessary to supervise registration of, or determination of eligibility of, horses entitled to entry in races, a portion of the purse of which is provided by the development fund, to assist the commission in determining the conditions, class and quality of the fund supported race program to be established hereunder so as to carry out the purposes of this section. ***These*** [~~Such~~] persons shall serve at the pleasure of the commission and compensation shall be fixed by the commission. The compensation of [~~such~~] personnel and necessary expenses shall be paid out of the development fund.

The commission shall ***promulgate*** [~~adopt~~] administrative regulations to carry out the provisions of this section, and shall administer the Kentucky sire stakes program created hereby in a manner best designed to promote and aid in the development of the horse industry in Kentucky; to upgrade the quality of racing in Kentucky; and to improve the quality of horses bred in Kentucky.

Section 37. KRS 230.990 is amended to read as follows:

(1) Any person who violates KRS 230.070 or subsection (3) of KRS 230.080 shall be fined not more than one thousand dollars ($1,000). In addition to the fine, he shall be imprisoned in the county jail for not more than one (1) year or imprisoned in the penitentiary for not more than two (2) years.

(2) Any person who violates KRS 230.090 shall, for each offense, be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both fined and imprisoned.

(3) Any person who violates KRS 230.680 shall be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for each day of the meeting or racing.

(4) Any person who refuses to make any report or to turn over sums as required by KRS 230.361 to 230.373 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned for not less than thirty (30) days nor more than six (6) months, or both.

(5) Any person failing to appear before the commission at the time and place specified in the summons issued pursuant to KRS 230.260(7), or refusing to testify, shall be deemed guilty of a misdemeanor and upon conviction by a court of competent jurisdiction shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months, or both. False swearing on the part of any witness shall be deemed perjury and punished as such.

Section 38. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order, provided, however, in the case of the Personnel Board, and where the attached department or administrative body is headed by a constitutionally elected officer, such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.

2. Lieutenant Governor.

3. Department of State.

    (a) Secretary of State.

    (b) Board of Elections.

4. Department of Law.

    (a) Attorney General.

5. Department of the Treasury.

(a) Treasurer.

6. Department of Agriculture.

(a) Commissioner of Agriculture.

(b) Kentucky Council on Agriculture.

7. Superintendent of Public Instruction.

8. Auditor of Public Accounts.

9. Railroad Commission.

II. Program cabinets headed by appointed officers:

1. Justice Cabinet:

(a) Department of State Police.

(b) Department of Criminal Justice Training.

(c) Office of Administration.

2. Education and Humanities Cabinet:

(a) Department of Education.

(1) State Board for Elementary and Secondary Education.

(2) Education Professional Standards Board.

(b) Department for Libraries and Archives.

(c) Kentucky Educational Television.

(d) Kentucky Historical Society.

(e) Kentucky Teachers' Retirement System Board of Trustees.

3. Natural Resources and Environmental Protection Cabinet:

(a) Environmental Quality Commission.

(b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.

(d) Department for Natural Resources.

(e) Department for Surface Mining Reclamation and Enforcement.

(f) Department of Law.

(g) Office of Communications and Community Affairs.

4. Transportation Cabinet:

(a) Department of Highways.

(b) Department of Vehicle Regulation.

(c) Department of Administrative Services.

(d) Department of Fiscal Management.

(e) Department of Rural and Municipal Aid.

(f) Office of Aeronautics.

(g) Office of General Counsel.

(h) Office of Public Relations.

(i) Office of Personnel Management.

(j) Office of Minority Affairs.

5. Cabinet for Economic Development:

(a) Department for Existing Business and Industry.

(b) Department of the Arts.

(c) Tobacco Research Board.

(d) Kentucky Development Finance Authority.

(e) Office of Business and Technology.

(f) Office of Industrial Development.

6. Public Protection and Regulation Cabinet:

(a) Public Service Commission.

(b) Department of Insurance.

(c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.

(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.

(g) Department of Alcoholic Beverage Control.

(h) Kentucky [~~Harness~~] Racing Commission.

(i) [~~Kentucky State Racing Commission.~~

~~(j)~~] Registry of Election Finance.

(j)[~~(k)~~] Board of Claims.

(k)[~~(l)~~] Crime Victims Compensation Board.

(l)[~~(m)~~] Kentucky Board of Tax Appeals.

(m)[~~(n)~~] Backside Improvement Commission.

7. Cabinet for Human Resources:

(a) Department for Health Services.

(b) Department for Employment Services.

(c) Department for Social Insurance.

(d) Department for Social Services.

(e) Department for Medicaid Services.

(f) Department for Mental Health and Mental Retardation Services.

(g) Unemployment Insurance Commission.

(h) Commission for Handicapped Children.

(i) Public Assistance Appeals Board.

(j) Office of Administrative Services.

(k) Office of Communications.

(l) Office of General Counsel.

(m) Office of Inspector General.

(n) Office of Policy and Budget.

(o) Office of the Ombudsman.

8. Finance and Administration Cabinet:

(a) Office of Legal and Legislative Services.

(b) Office of Management and Fiscal Affairs.

(c) Office of Historic Properties.

(d) Office of Financial Management and Economic Analysis.

(e) Office of Risk Management.

(f) Department for Administration.

(g) Department of Facilities Management.

(h) Department of Information Systems.

(i) State Property and Buildings Commission.

(j) Kentucky Pollution Abatement Authority.

(k) Kentucky Savings Bond Authority.

(l) Deferred Compensation Systems.

(m) Office of Equal Employment Opportunity Contract Compliance.

(n) Capital Plaza Authority.

- (o) County Officials Compensation Board.
- (p) Financial Disclosure Review Commission.
- (q) Kentucky Employees Retirement Systems.
- (r) Commonwealth Credit Union.
- (s) State Investment Commission.
- (t) Kentucky Housing Corporation.
- (u) Governmental Services Center.
- (v) Kentucky Local Correctional Facilities Construction Authority.
- (w) Kentucky Turnpike Authority.
- (x) Historic Properties Advisory Commission.

9. Corrections Cabinet:
    - (a) Parole Board.
    - (b) Commission on Corrections and Community Services.
    - (c) Department of Adult Correctional Institutions.
    - (d) Department of Community Services and Facilities.
    - (e) Office of Administrative Services.
    - (f) Office of Corrections Training.
    - (g) Office of General Counsel.
10. Labor Cabinet:
    - (a) Department of Workplace Standards.
    - (b) Department of Workers' Claims.
    - (c) Kentucky Labor-Management Advisory Council.
    - (d) Occupational Safety and Health Standards Board.

(e) Prevailing Wage Review Board.

(f) Workers' Compensation Board.

(g) Kentucky Employees Insurance Association.

(h) Apprenticeship and Training Council.

(i) State Labor Relations Board.

(j) Kentucky Occupational Safety and Health Review Commission.

(k) Office of Administrative Services.

(l) Office of Labor Management Relations.

(m) Office of General Counsel.

11. Revenue Cabinet:

(a) Department of Property Taxation.

(b) Department of Tax Compliance.

(c) Department of Administrative Services.

12. Tourism Cabinet:

(a) Department of Travel Development.

(b) Department of Parks.

(c) Department of Fish and Wildlife Resources.

(d) Kentucky Horse Park Commission.

(e) State Fair Board.

(f) Office of Administrative Services.

(g) Office of General Counsel.

13. Cabinet for Workforce Development:

(a) Department for Adult and Technical Education.

(b) Department of Vocational Rehabilitation.

(c) Department for the Blind.

(d) State Board for Adult and Technical Education.

(e) Governor's Council on Vocational Education.

(f) Governor's Commission on Literacy.

(g) The State Board for Proprietary Education.

(h) The GED Foundation.

(i) The Kentucky Occupational Information Coordinating Committee.

(j) The Kentucky Job Training Coordinating Council.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Department of Personnel.

3. Council on Higher Education.

4. Department of Local Government.

5. Kentucky Commission on Human Rights.

6. Kentucky Commission on Women.

Section 39. KRS 48.315 is amended to read as follows:

(1) The General Assembly may provide in a budget bill for the transfer to the general fund for the purpose of the general fund all or part of the agency funds, special funds, or other funds established under the provisions of KRS 15.430; 16.565; 21.347; 21.540; 21.560; 42.500; 47.010; 48.010(g); 56.100; 61.470; 61.580; 64.345; 64.350; 64.355; 78.650; 95A.220; 136.392; 138.510; 150.150; 154.150; 161.420; 161.430; 164A.020; 164A.110; 164A.800; 164A.810; 216A.110; 230.218; [~~230.398;~~] 230.400; 230.770; 235.330; 248.540; 248.550; 278.130; 278.150; 287.485; 304.35-030; 311.450; 311.610; 312.019; 313.350; 314.161; 315.195; 316.210; 317.530; 317A.080; 319.131; 320.360; 321.320; 322.290; 322.330; 322.420; 323.080; 323.190; 323.210; 323A.060; 323A.190; 323A.210; 324.286; 324.410; 325.250; 326.120; 327.080; 330.050; 334.160; 334A.120; 335.140; 342.122; 342.480, etc.

(2) The transfer of moneys from the agency funds, special funds, or other funds to the general fund provided for in subsection (1) of this section shall be for the period of time specified in the budget bill.

(3) Any provisions of any statute in conflict with the provisions of subsections (1) and (2) of this section are hereby suspended or modified. ***Any*** [~~Such~~] suspension or modification shall not extend beyond the duration of the budget bill.

Section 40. The following KRS sections are repealed:

230.220 Kentucky state racing commission — Membership — Terms — Compensation — Office — Open meetings — Quorum.

230.376 Definitions.

230.385 Regulation of pari-mutuel wagering.

230.386 Report of unclaimed pari-mutuel tickets presumed abandoned.

230.387 Money to be turned over to commission.

230.388 Judicial determination of rights.

230.389 Payment to commission relieves person of claims liability.

230.390 Time for filing claims.

230.391 Commission's consideration of claim — Payment.

230.392 Appeals.

230.393 Examination of records.

230.394 Rules.

230.395 Civil action authorized.

230.396 Costs — Payment.

230.397 Statute of limitations for person under disability.

230.610 Definitions for KRS 230.620 to 230.760.

230.622 Kentucky Harness Racing Commission — Organization — Former advisory members' status — Biennial report — Compensation and reimbursement.

230.630 Authority and power of commission.

230.640 Purpose — Policy — Penalty.

230.650 Secretary of Commission — Other personnel.

230.660 Appointment of additional employees — Payment of salaries.

230.670 Legal counsel.

230.680 Requirement for license — Fee.

230.690 License to conduct horse racing or engage in simulcasting or intertrack wagering as a receiving track.

230.700 Attendants' licenses.

230.710 Format and content of licenses.

230.720 Suspension or revocation of license — Appeal.

230.730 Proceedings on appeal.

230.740 Scope of provisions — Taxes.

Section 41. Whereas the funding of the Breeders Award Fund from simulcasting revenues is dependent on the expedient development of simulcast facilities, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

Representative LeMaster moved that the House concur in the Senate Committee Substitute to **HB 749**. Agreed.

Representative LeMaster moved that **HB 749**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 66, Nays 25. (See March 24, 1992 roll call on **HB 749** - Appendix.)

HB 749, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 749**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 451, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 451** is as follows:

Amend printed copy of **HB 451/GA** on page 2, line 4, by deleting the amount "84,655,100" and inserting in lieu thereof the amount "84,790,000";

Page 2, line 4, by deleting the amount "87,175,800" and inserting in lieu thereof the amount "87,326,200";

Page 2, line 7, by deleting the amount "84,823,700" and inserting in lieu thereof the amount "84,958,700";

Page 2, line 7, by deleting the amount "87,299,300" and inserting in lieu thereof the amount "87,449,700";

Page 2, line 8, by deleting the words "two percent (2%)", and inserting in lieu thereof: "$360.00";

Page 2, by deleting line 10 in its entirety and inserting in lieu thereof the following: "earning $20,000 or less, per year, and no";

Page 2, line 11, by deleting "1993-94" and inserting in lieu thereof: "1992-93;

Page 2, line 11, after "all" by adding "other";

Page 2, line 12, after "personnel.", by adding the following: "Funds are included to provide a one percent (1%) salary adjustment in fiscal year 1993-94 for all elected and non-elected court personnel earning in excess of $50,000 per year, and a three percent (3%) salary adjustment in fiscal year 1993-94 for all other elected and non-elected court personnel.";

Page 2, line 19, by deleting the amount "97,284,700" and inserting in lieu thereof the amount "97,419,600";

Page 2, line 19, by deleting the amount "100,175,800" and inserting in lieu thereof the amount "100,326,200";

Page 2, line 22, by deleting the amount "97,453,300" and inserting in lieu thereof the amount "97,588,200";

Page 2, line 22, by deleting the amount "100,299,300" and inserting in lieu thereof the amount "100,449,700";

Page 3, line 9, by deleting the amount "99,397,000" and inserting in lieu thereof the amount "99,531,900";

Page 3, line 9, by deleting the amount "102,299,800" and inserting in lieu thereof the amount "102,450,200";

Page 3, line 12, by deleting the amount "99,565,600" and inserting in lieu thereof the amount "99,700,500";

Page 3, line 12, by deleting the amount "102,423,300" and inserting in lieu thereof the amount "102,573,700";

Representative Clarke moved that the House refuse to concur in Senate Amendment No. 1 to **HB 451**. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Cities: **SB 414**

Education: **HR 250, SB 235, SB 389**

Health and Welfare: **SB 276, SB 393**

State Government: **SCR 137**

Transportation: **SCR 166**

Motions, Petitions and Communications

Representative Stumbo moved that the three day posting requirement on **SB 217, SB 282, SB 297, SCR 111, SB 222, SB 278, SB 324, SB 382, SB 235, SB 57** and **SB 275** be waived. Agreed.

Representative Stumbo moved that **SCR 137** be reassigned to the Committee on Cities. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **SCR 137**. Agreed.

Representative Stumbo moved that the vote by which **SB 78** was defeated be reconsidered.

On the roll call the vote was yeas 53—Ark, Arnold, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Burch, Callahan, Castleman, L. Clark, Coleman, Crupper, Curd, Cyrus, Farrow, Geveden, Gray, Hancock, J. Harper, Hourigan, Johnson, Jones, Lear, LeMaster, Long, Lyne, Mack, Mason, McElroy, Morris, Mullinix, Nelson, Noe, Northup, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Riggs, Scorsone, Sheehan, B. Smith, T. Smith, Stumbo, Walker, Ward, Wayne, Worthington, Zimmerman. Nays 29—Ackerson, Allen, Altman, Ballard, Bryant, Casebier, P. Clark, Clarke, Collins, Donnermeyer, Farley, Ford, Freibert, Gedling, Gee, Gregory, Heleringer, Jensen, Keith, Little, Napier, Noland, Nunn, Stokes, Strong, Toby, Todd, Turner, Williams.

The motion that the vote by which **SB 78** was defeated be reconsidered was adopted.

Representative Stumbo moved that **SB 78** be placed in the Orders of the Day for March 25, 1992. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees, Posting of Bills and Resolutions for Consideration and to allow co-sponsors. Agreed.

Introduction of Bills and Resolutions (Continued)

HR 252, by Representative Donnermeyer: A RESOLUTION honoring Mary Fuchs on the occasion of her one hundredth birthday.

Floor Amendments (Continued)

Floor Amendment No. 2 to **SB 78**, by Representative Williams:

Amend printed copy of **SB 78/GA** on page 3, delete lines 4-6 in their entirety;

On page 3, line 7 delete "***(b)***" and insert in lieu thereof "***(a)***";

On page 3, delete line 9;

On page 3, line 10 delete "***(d)***" and insert in lieu thereof "***(b)***";

On page 3, after line 22 add the following language:

"***(5) A yearly evaluation of the effectiveness of the Kentucky Education Reform Act shall begin during the 1992-93 school year. The evaluation shall be conducted by the Department of Education and shall include the following:***

(a) Beginning with the 1992-93 school year, a stratified sample of ten percent (10%) of all Kentucky public school third graders and ten percent (10%) of all Kentucky public school fifth graders shall be tested in alternate years using a nationally recognized standardized achievement test.

(b) Beginning with the 1993-94 school year, a stratified sample of ten percent (10%) of all Kentucky public school seventh graders and ten percent (10%) of all Kentucky public school ninth graders shall be tested in alternate years using a nationally recognized, standardized achievement test.

(c) Each student's rankings on these tests shall be compared to his ranking on the last nationally recognized achievement test he took prior to the 1990-91 school year. The scores of each student shall be compared with the tests taken each year and an evaluation made to determine the effect of the programs implemented by the Kentucky Education Reform Act.

(d) Testing required by this subsection shall continue until the class of students taking the tests before the 1990-91 school year have graduated.".

Floor Amendment No. 1 to **SB 78**, by Representative Williams:

Amend printed copy of **SB 78/GA** on page 3, delete lines 4-6 in their entirety;

On page 3, line 7 delete "***(b)***" and insert in lieu thereof "***(a)***";

On page 3, delete line 9; and

On page 3, line 10 delete "***(d)***" and insert in lieu thereof "***(b)***".

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environmental Protection: **SB 297**

Election and Constitutional Amendments: **SB 226, SB 262, SB 184, SB 185**

State Government: **SB 418, SB 324, SB 382, SCR 111**

Transportation: **SCR 166**

Education: **SB 235**

Health and Welfare: **HB 931, SB 198, SB 426, SB 231, SB 393**

Banking and Insurance: **SB 282, SB 217**

Report of Committees (Continued)

The Committee on Judiciary reported **SB 8, SB 87, SB 103**, with Committee Substitute and Title Amendment attached thereto, **SB 131, SB 244**, with Committee Amendments attached thereto, and **SB 325** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 8, AN ACT relating to reporting of bias related conduct.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Criminal Justice Training shall include in each basic law enforcement training course conducted by, or under the approval of the department, a unit of training relating to identifying, responding to, investigation of, and reporting of bias related crime cases. As used in this section, bias related crime is an offense which appears to be caused as a result of or reasonably related to race, color, religion, sex, or national origin or attempts to victimize or intimidate another due to any of the foregoing causes.

(2) The Department of Criminal Justice Training shall, biennially, require law enforcement inservice training courses to contain a unit of instruction on bias related crime.

SECTION 2. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The uniform offense report shall contain provisions for obtaining information as to whether or not specific crimes appear from their facts and circumstances to be caused as a result of or reasonably related to race, color, religion, sex, or national origin.

(2) All law enforcement officers, when completing a uniform offense report note thereon whether or not the offense appears to be caused as a result of or reasonably related to race, color, religion, sex, or national origin or attempts to victimize or intimidate another due to any of the foregoing causes.

(3) The Justice Cabinet shall, annually, as a part of the crime reports report on crimes which appear to have been caused by the factors cited in subsections (1) and (2) of this section.

SB 87, AN ACT relating to fines and forfeitures.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 431.100 is amended to read as follows:

(1) Except as provided in subsection (2) ***or (3)*** of this section all fines and forfeitures imposed by law or ordinance shall inure to and vest in the Commonwealth.

(2) Fines and forfeitures imposed by law for violation of KRS 222.202 or ordinances relating to similar subject matter shall inure to and vest in the Commonwealth and shall be placed in a special fund in the state treasury, which shall not lapse, and which, effective July 1, 1987, shall be used solely by the cabinet for human resources for the provision of treatment and counseling programs for alcoholics.

(3) Fines for violation of KRS 512.070 shall be transferred by the Circuit Clerk to the county treasurer for inclusion in the general fund of the county in which the offense occurs.

SB 103, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 509 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of interference with child visitation rights when he:

(a) Is the custodial parent;

(b) Is subject to a court order or court approved agreement requiring or permitting a child to visit the noncustodial parent; and

(c) Intentionally, unless reasonable grounds are shown for the violation, violates the court order or court approved agreement by not permitting the child to visit in accordance with the terms of the agreement or by restricting the visits of the child, or by adding terms and conditions to the visits of the child which are not contained in the order or agreement.

(2) Interference with child visitation rights is a violation for the first offense, a Class B misdemeanor for the second offense, and a Class A misdemeanor for each subsequent offense.

The Committee Substitute to **SB 103** is as follows:

SB 103, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.320 is amended to read as follows:

(1) A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional health. ***Upon request of eithr party, the court shall issue orders which are specific as to the frequency, timing, duration, conditions, and method of scheduling visitation and which reflect the development age of the child.***

(2) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child; but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral or emotional health.

Section 2. KRS 403.240 is amended to read as follows:

(1) If a party fails to comply with a provision of a decree or temporary order or injunction, the obligation of the other party to make payments for support or maintenance or to permit visitation is not suspended; but he may move the court to grant an appropriate order.

(2) The failure of either party, without good cause, to comply with a provision of a decree or temporary order or injunction, including a provision with respect to visitation or child support shall constitute contempt of court, and the court shall remedy the failure to comply.

(3) Good cause not to comply with a provision of a decree or temporary order or injunction with respect to visitation shall include mutual consent of the parties; reasonable belief by either party that there exists the possibility of endangerment to the physical, mental, moral, or emotional health of the child, or endangerment to the physical safety of either party, or extraordinary circumstances as determined by the court.

(4) The court may, if no reasonable cause is found for denial of visitation, award attorneys fees to the prevailing party.

Section 3. KRS 403.340 is amended to read as follows:

(1) No motion to modify a custody decree ***shall*** [~~may~~] be made earlier than ***two (2)*** years after its date, unless the court permits it to be made on the basis of affidavits that there is reason to believe the child's present environment may endanger seriously his physical, mental, moral, or emotional health.

(2) If a court of this state has jurisdiction pursuant to the Uniform Child Custody Jurisdiction Act, the court shall not modify a prior custody decree unless it finds, upon the basis of facts that have arisen since the prior decree or that were unknown to the court at the time of entry of the prior decree, that a change has occurred in the circumstances of the child or his custodian, and that the modification is necessary to serve the best interests of the child. In applying these standards, the court shall retain the custodian appointed pursuant to the prior decree unless:

(a) The custodian agrees to the modification;

(b) The child has been integrated into the family of the petitioner with consent of the custodian; or

(c) The child's present environment endangers seriously his physical, mental, moral, or emotional health, and the harm likely to be caused by a change of environment is outweighed by its advantages to him.

(3) ***In determining whether a child's present environment may endanger seriously his physical, mental, moral, or emotional health, the court shall consider all relevant factors, including but not limited to:***

(a) The interaction and interrelationship of the child with his parent or parents, his siblings, and any other person who may significantly affect the child's best interests;

(b) The mental and physical health of all individuals involved;

(c) Repeated or substantial failure, without good cause as specified in KRS 403.240, of either parent to observe visitation, child support, or other provisions of the decree which affect the child, except that modification of custody orders shall not be made solely on the basis of failure to comply with visitation or child support provisions, or on the basis of which parent is more likely to allow visitation or pay child support;

(d) If domestic violence and abuse, as defined in KRS 403.720, is found by the court to exist, the extent to which the domestic violence and abuse has affected the child and the child's relationship to both parents.

(4) Attorney fees and costs shall be assessed against a party seeking modification if the court finds that the modification action is vexatious and constitutes harassment.

Section 4. KRS 403.725 is amended to read as follows:

(1) Any family member who has been a resident of this state for at least thirty (30) days may file a verified petition in the District Court of the county in which he resides. If the petitioner has left his usual place of residence within this state in order to avoid domestic violence and abuse the petition may be filed in the District Court in the county of his usual residence or in the District Court in the county of current residence.

(2) A petition filed pursuant to subsection (1) of this section may be filed by the family member seeking relief or by an adult family member on behalf of a minor family member.

(3) If a family member files an action for dissolution of marriage or child custody in Circuit Court, the Circuit Court shall have jurisdiction to issue a protective order upon the filing of a verified motion therein either at the commencement or during the pendency of the action in Circuit Court pursuant to the provisions of KRS 403.730 to 403.785.

(4) When the elected, appointed, or special judge of the district is absent from the district, otherwise unavailable, or unable to act, any Circuit Judge shall have the authority to issue an emergency protective order pursuant to KRS 403.730 to 403.785. If a Circuit Judge issues an emergency protective order, except as otherwise provided in this section, that judge shall conduct the hearing as required by KRS 403.745 and any order issued shall be enforced as provided in this chapter.

(5) During any hearing in Circuit Court on dissolution of marriage, child custody, or visitation, at which both parties are present or represented by counsel, the Circuit Judge shall have the authority to issue a protective order pursuant to KRS 403.750 to 403.785.

(6) Following the issuance of a protective order under this section, if the judge who issued the order is absent from the district, otherwise unavailable, or unable to conduct proceedings regarding the enforcement, violation, or modification of the order within a reasonable time, the proceedings shall be conducted by any District or Circuit Judge.

Section 5. KRS 17.460 is amended to read as follows:

(1) Upon notification by a parent, [~~or~~] guardian, ***person exercising custodial control or supervision, or the authorized representative of the Department for Social Services of the Cabinet for Human Resources if the child is a ward of the state,*** that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice Cabinet [~~and~~] which shall include [~~such~~] information [~~as~~] the ***Justice*** Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) ***(a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.***

(b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for Social Services of the Cabinet for Human Resources in the jurisdiction of the law enforcement agency.

(c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court designated worker with jurisdiction for placement determination.

(d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.

(5) Within twenty-four (24) hours after a missing child is located and returned to ***the appropriate caretaker pursuant to subsection (4) of this section*** [~~his parent, guardian or to the state, if a ward of the state~~], the law enforcement agency which ***transported,*** found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

The Committee Title Amendment to **SB 103** is as follows:

Amend printed copy of **SB 103/GA**, Title, by amending to read: "AN ACT relating to children."

SB 131, AN ACT relating to child-care centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.165 is amended to read as follows:

(1) As used in this section, "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS 510.040 to 510.140, 529.020 to 529.050, 530.020, 530.065, 531.310, 531.320, and 531.340 to 531.370. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

(2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(4) No child-care center as defined in KRS 199.894 shall ***be owned, operated, or managed by, or*** employ, in a position which involves supervisory or disciplinary power over a minor, any person who is a violent offender or has been convicted of a sex crime [~~classified as a felony. Operators of child-care centers may employ persons convicted of sex crimes classified as a misdemeanor at their discretion~~]. ***The Cabinet for Human Resources, when processing a child care center license application or renewal, and*** each child-care center shall request all conviction information for any applicant for employment from the Justice Cabinet prior to employing the applicant.

(5) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(6) Any request for records under subsection (4) of this section shall be on a form approved by the Justice Cabinet, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(7) The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 2. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) [~~(a)~~] Any child-care center which violates subsection (4) of KRS 17.165 may be liable for license revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for Human Resources[~~; and~~

~~(b) In addition to penalties listed in this subsection, any child-care center which violates subsection (4) of KRS 17.165 shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000)~~].

SB 244, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 529.090 is amended to read as follows:

(1) Any person convicted of prostitution or procuring another to commit prostitution under the provisions of KRS 529.020 shall be required to undergo screening for human immunodeficiency virus infection under direction of the Cabinet for Human Resources and, if infected, shall submit to treatment and counseling as a condition of release from probation, community control, or incarceration. Notwithstanding the provisions of KRS 214.420, the results of any test conducted pursuant to this subsection shall be made available by the Cabinet for Human Resources to medical personnel, appropriate state agencies, or courts of appropriate jurisdiction to enforce the provisions of this chapter.

(2) Any person who commits prostitution and who, prior to the commission of the crime, had tested positive for a sexually transmitted disease and knew or had been informed that he had tested positive for a sexually transmitted disease pursuant to KRS 214.410 and that he could possibly communicate such disease to another person through sexual activity is guilty of a Class A misdemeanor. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(3) Any person who commits***, offers, or agrees to commit*** prostitution by engaging in sexual activity in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony. A person may be convicted and sentenced separately for a violation of this subsection and for the underlying crime of prostitution.

(4) Any person convicted of procuring another to commit prostitution in a manner likely to transmit the human immunodeficiency virus and who, prior to the commission of the crime, had tested positive for human immunodeficiency virus and knew or had been informed that he had tested positive for human immunodeficiency virus and that he could possibly communicate the disease to another person through sexual activity is guilty of a Class D felony.

Section 2. KRS 17.110 is amended to read as follows:

(1) All city and county law enforcement agencies shall cause a photograph, a set of fingerprints and a general description report of all persons arrested on a felony charge to be made and two (2) copies of each item forwarded within thirty (30) days after the arrest to the Department of State Police of the Justice Cabinet, in accordance with regulations of the Justice Cabinet. ***Unless the charges are dismissed or withdrawn at that appearance, the judge shall require any adult person appearing before any circuit court in the Commonwealth on a felony charge, who has not been arrested, to be photographed and fingerprinted, and have a general description made following his arraignment.*** [~~Such~~] Agencies ***specified above*** shall furnish any other information involving offenses [~~under the penal code~~] or in their possession relative to law enforcement upon request by the Justice Cabinet.

(2) Each city and county law enforcement agency shall advise the Department of State Police of the disposition made of all cases wherein a person has been charged with an offense [~~under the penal code~~].

Section 3. KRS 29A.070 is amended to read as follows:

(1) The chief Circuit Judge shall cause to be mailed or delivered with the summons to each juror a juror qualification form accompanied by instructions to fill out and return the form by mail or hand delivery to the clerk within five (5) days after its receipt, or to be completed as otherwise directed. The juror qualification form shall be provided by the Administrative Office of the Courts and subject to approval by the Chief Justice of the Supreme Court.

(2) The juror qualification form shall contain the prospective juror's signed declaration that his responses are true to the best of his knowledge and his acknowledgment that a willful misrepresentation of a material fact may be punished ***as a Class D felony*** by a fine ***not to exceed ten thousand dollars ($10,000)*** or by imprisonment ***in the penitentiary for not more than five (5) years***[~~, or both~~]. Notarization of the juror qualification form shall [~~not~~] be required ***unless sworn to before the circuit clerk or deputy circuit clerk***.

(3) If the prospective juror is unable to fill out the form, another person may do it for him and shall indicate that he has done so and the reason therefor.

(4) Any prospective juror who fails to return a properly completed juror qualification form as instructed may be directed by the chief Circuit Judge to appear forthwith to fill out a juror qualification form. At the time of his appearance for jury service, any prospective juror may be questioned by the judge or his designee, but only with regard to his responses to questions contained on the form and grounds for his excuse or disqualification. Any information thus acquired shall be noted on the juror qualification form.

(5) A prospective juror who fails to appear as directed by the judge pursuant to subsection (4) of this section shall be ordered to appear and show cause for his failure to appear as directed. If the prospective juror fails to appear pursuant to the judge's order or fails to show good cause for his failure to appear as directed by the judge, he may be punished for contempt.

(6) No person shall willfully misrepresent a material fact on a juror qualification form.

(7) The contents of juror qualification forms shall be made available to parties or their attorneys of record unless the court determines in any instance in the interest of justice that this information shall be kept confidential or its use limited in whole or in part.

Section 4. KRS 29A.990 is amended to read as follows:

(1) Any employer who violates subsection (1) of KRS 29A.160 is guilty of a Class B misdemeanor.

(2) Any willful violation of KRS 29A.010 to 29A.330 for which a penalty is not otherwise provided by statute shall be punishable as a Class A misdemeanor.

(3) Any person who violates the provisions of KRS 29A.070(6) is guilty of a Class D felony.

Section 5. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived***, unless the defendant is in custody and is ineligible for probation or conditional discharge.***

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

The Committee Amendment No. 1 to **SB 244** is as follows:

Amend printed copy of **SB 244/GA** on page 3, line 9 following "***to***" to add:

"***, if this has not already been done in the case before the court,***"

The Committee Amendment No. 2 to **SB 244** is as follows:

Amend printed copy of **SB 244/GA** on page 3, lines 20 to 26 to delete the same;

and on page 4, lines 1 to 26, to delete the same;

and on page 5, lines 1 to 22, to delete the same;

and on page 5, line 23, to delete "5." and to insert "3."

The Committee Amendment No. 3 to **SB 244** is as follows:

Amend printed copy of **SB 244/GA** on pages 6, lines 3 and 4 to delete the underlined material and to insert the following:

"***, however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody and is ineligible for probation or conditional discharge***".

SB 325, AN ACT relating to the process by which statutes are enacted, codified, and published, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 7.136 is amended to read as follows:

(1) The Commission, in preparing editions of the statutes or supplements or pocket parts thereto for publication or distribution, shall not alter the sense, meaning, or effect of any act of the General Assembly, but may***:***

(a) Renumber sections and parts of sections of the acts of the General Assembly***;***[~~,~~]

(b) Change the wording of headnotes***;***[~~,~~]

(c) Divide or rearrange sections and parts of sections***;***[~~,~~]

(d) Change words when directed by law***;***[~~,~~]

(e) Change reference numbers to agree with renumbered chapters or sections, or to make corrections in reference numbers when sections referred to are repealed or amended and the correction can be made without change in the law***;***[~~,~~]

(f) Substitute the proper section or chapter numbers for the terms "this act," "the preceding section," and the like***;***[~~,~~]

(g) Change capitalization, ***spelling, and punctuation*** for the purpose of uniformity ***and consistency;***[~~,~~] and

(h) Correct manifest clerical or typographical errors.

(2) In any edition of Kentucky Revised Statutes or supplement thereto hereafter published, the reviser of statutes may substitute the name of any agency, officer, or instrumentality of the Commonwealth or of a political subdivision whose name is changed by law or to which powers, duties, and responsibilities have been transferred by law, for the name which the agency, officer, or instrumentality previously used or of the agency which was previously vested with the same powers and charged with the same duties and responsibilities.

(3) If any section or part of a section of a statute or of any act of the General Assembly is amended by more than one (1) act at the same session of the General Assembly, the Commission may incorporate in the statute, the section as amended or altered by the several acts, if each of the amendments, changes, or alterations can be given effect and incorporated in the section in a manner which will make the section intelligible. If a conflict appears between any section amended in an act to revise and amend the Kentucky Revised Statutes and the same section in any other act adopted at the same session of the General Assembly, the change or alteration effected by the nonrevisory act shall be inserted in the section as incorporated in the statute publication.

Section 2. KRS 7.138 is amended to read as follows:

(1) When any complete ***official*** edition of the statutes is published, ***the director of the Legislative Research Commission shall issue and*** the reviser of statutes shall ***attest to*** [~~prepare~~] a certificate that the ***edition*** [~~same~~] contains all statute laws of the Commonwealth of a general nature except those omitted pursuant to KRS 7.134, ***that the edition has been prepared in a manner acceptable to the Legislative Research Commission so as to insure fidelity of its text with the enrolled bills of the General Assembly*** [~~that each section printed in the edition has been compared with the original section in the enrolled Kentucky Revised Statutes, or, in the case of sections of acts enacted after the adoption of the Kentucky Revised Statutes, with the original section in the enrolled bill~~], and that, with ***any*** [~~the exception of the~~] changes in form permitted by KRS 7.136 ***having been incorporated***, the sections in the printed edition are correctly printed. A similar certification for each ***new volume, unit,*** supplement, or supplemental pocket part ***of an official edition*** shall be made, but it need not recite that ***the volume, unit, supplement, or supplemental pocket part*** [~~same~~] contains all general statute laws. All copies of the edition shall contain a printed copy of the certificate.

(2) Any edition so certified shall constitute prima facie evidence of the law in all courts and proceedings, and any section in such edition may be amended or repealed by reference to the section number, without reference to the legislative act from which it was compiled. No compilation of the statute laws of Kentucky not bearing such a certificate shall be admissible as evidence of the law in any court or proceeding.

Section 3. KRS 7.138, as amended by 1990 Ky. Acts ch. 88, sec. 89, is amended to read as follows:

(1) When any complete ***official*** edition of the statutes is published, ***the director of the Legislative Research Commission shall issue and*** the reviser of statutes shall ***attest to*** [~~prepare~~] a certificate that the ***edition*** [~~same~~] contains all statute laws of the Commonwealth of a general nature except those omitted pursuant to KRS 7.134, ***that the edition has been prepared in a manner acceptable to the Legislative Research Commission so as to insure fidelity of its text with the enrolled bills of the General Assembly*** [~~that each section printed in the edition has been compared with the original section in the enrolled Kentucky Revised Statutes, or, in the case of sections of acts enacted after the adoption of the Kentucky Revised Statutes, with the original section in the enrolled bill~~], and that, with ***any*** [~~the exception of the~~] changes in form permitted by KRS 7.136 ***having been incorporated***, the sections in the printed edition are correctly printed. A similar certification for each ***new volume, unit,*** supplement, or supplemental pocket part ***of an official edition*** shall be made, but it need not recite that ***the volume, unit, supplement, or supplemental pocket part*** [~~same~~] contains all general statute laws. All copies of the edition shall contain a printed copy of the certificate.

(2) Any section in ***an official*** [~~such~~] edition may be amended or repealed by reference to the section number, without reference to the legislative act from which it was compiled.

(3) In any judicial or administrative proceeding, the text of any codified Kentucky statute which is submitted or cited by a party or upon which the court or administrative officer or body relies shall be that text contained in an official edition of the Kentucky Revised Statutes so designated pursuant to KRS 7.132 and bearing the certification provided for by subsection (1) of this section.

Section 4. KRS 446.120 is amended to read as follows:

(1) "KRS" may be used as an abbreviation of "Kentucky Revised Statutes."

(2) Wherever in the statute laws of this state a reference is made to several sections and the section numbers given in the reference are connected by the word "to," the reference includes both the sections whose numbers are given and all intervening sections.

(3) Wherever in the Kentucky Revised Statutes a reference is made to a subsection without stating the

section of which the subsection referred to is a part, the reference is to the subsection of the section in which the reference is made.

(4) Wherever in the Kentucky Revised Statutes a reference is made to a paragraph without stating the section and subsection of which the paragraph referred to is a part, the reference is to the paragraph of the subsection in which the reference is made.

(5) Material in the official edition of the Acts of the General Assembly shall be cited in the following manner:

(a) For acts of regular sessions, 19xx Ky. Acts ch. xxx, sec. xxx, e.g., 1990 Ky. Acts ch. 476, sec. 1; and

(b) For acts of extraordinary sessions, 19xx (xxx Extra. Sess.) Ky. Acts ch. xxx, sec. xxx, e.g., 1991 (2d Extra. Sess.) Ky. Acts ch. 5, sec. 101.

Section 5. KRS 446.145 is amended to read as follows:

(1) Bills amending an existing section of the statutes shall indicate the material proposed to be deleted by brackets and by striking through the material.

(2) Bills amending an existing section of the statutes shall indicate new material by underlining.

(3) Bills creating a new section of the statutes shall begin with the phrase "A NEW SECTION OF KRS CHAPTER ______ IS CREATED TO READ AS FOLLOWS:" and shall contain underlining of all material in the section.

(4) Bills repealing a section of the statutes shall list the statute number and headnote.

(5) (a) Bills repealing and reenacting a section of the statutes without change from the text of that statute as it read at the time of its repeal shall begin with the phrase "KRS ______ is repealed and reenacted (or "reenacted as a new section of KRS Chapter ______", if appropriate) to read as follows:" and shall not contain underlining of the reenacted text.

(b) Bills repealing and reenacting a section of the statutes with changes from the text of that statute as it read at the time of its repeal shall begin with the phrase "KRS ______ is repealed, reenacted (or "reenacted as a new section of KRS Chapter ______", if appropriate), and amended to read as follows:", shall indicate the material proposed to be deleted by brackets and by striking through the material, and shall indicate new material by underlining.

(c) Bills repealing and reenacting a section of the statutes with text totally different from the text of that statute as it read at the time of its repeal or so substantially different that using the procedure set out in paragraph (b) of this subsection is impracticable shall begin with the phrase "KRS ______ IS REPEALED AND REENACTED (or "REENACTED AS A NEW SECTION OF KRS CHAPTER —-", if appropriate) TO READ AS FOLLOWS:" and shall indicate the reenacted text of the statute by underlining.

(6) Sections of a bill not intended to be codified shall begin simply with the section number within the bill without any further introductory phrase, and the text of those sections shall be in normal type and not in all capitals or with underlining. These not-to-be-codified sections shall ordinarily be placed at the end of the bill or, in a bill having multiple parts, at the end of a particular part of that bill. Unless expressly drafted in a manner indicating codification is intended or unless determined by the reviser of statutes that

codification is appropriate and necessary, the following material shall not be codified, in conformity with KRS 7.134(2):

(a) Repealers and repeals of repealers;

(b) Appropriation provisions;

(c) Temporary provisions;

(d) Construction clauses, including severability clauses;

(e) A short title, if necessary, for an act that is not a distinct codifiable unit; and

(f) Effective date provisions.

Section 6. Section 5 of this Act shall have the normal effective date for legislation enacted by the 1992 Regular Session of the General Assembly.

Section 7. Whereas the General Assembly finds it necessary and expedient that the provisions of this Act become effective as soon as possible so that they may be utilized in the codification and publication of the enactments of this 1992 Regular Session, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on State Government reported **SB 209**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 209, AN ACT relating to a lien information system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly that a statewide automated lien information system database be created to accumulate and disseminate information relative to lien notations on certificates of title to property issued by the Commonwealth, financing statements, continuation statements, lien releases, amendments and assignments of liens, and other information and lien documents filed pursuant to KRS Chapters 355, 186, 186A, and 134.

(2) There is hereby created an independent agency of state government to be known as the Kentucky Lien Information Network, hereinafter in Sections 1 to 20 of this Act called the "network." It shall be the responsibility of the network to develop and implement a statewide automated lien information system and to coordinate, on a statewide level, the strategic planning and regulations relating to the creation, operation, and maintenance of the system's database.

(3) The network shall be governed by a board composed of sixteen (16) members, which shall consist of:

(a) The Secretary of State, or his designee;

(b) The Attorney General, or his designee;

(c) The secretary of the Transportation Cabinet, or his designee;

(d) The Auditor of Public Accounts, or his designee;

(e) The secretary of the Revenue Cabinet, or his designee;

(f) The commissioner of the Department of Information Systems, or his designee;

(g) The director of the Legislative Research Commission, or his designee;

(h) The commissioner of the Department for Libraries and Archives, or his designee;

(i) The commissioner of the Department of Local Government or his designee;

(j) Three (3) representatives of the Kentucky County Clerks Association appointed by the Governor from a list of ten (10) persons submitted by the president of the Kentucky County Clerks Association;

(k) One (1) representative of the Kentucky Bar Association appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Bar Association;

(l) One (1) representative of the Kentucky Bankers Association appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Bankers Association;

(m) One (1) representative of the Community Bankers Association appointed by the Governor from a list of three (3) persons submitted by the president of the Community Bankers Association;

(n) One (1) representative of the Kentucky Farm Bureau Federation appointed by the Governor from a list of three (3) persons submitted by the President of the Kentucky Farm Bureau Federation;

(o) The terms of the representatives of the Kentucky County Clerks Association, the Kentucky Bankers Association, the Community Bankers Association, the Kentucky Bar Association and the Kentucky Farm Bureau Federation shall be for four (4) years and until their successors are appointed, the first term to begin May 1, 1992. Any person appointed to represent the Kentucky County Clerks Association, the Kentucky Bar Association or the Kentucky Farm Bureau Federation shall remain a member in good standing of their respective associations or federation in order to serve on the board. Any person appointed to represent the Kentucky Bankers Association or the Community Bankers Association shall remain a member of the staff of, or counsel to, the association or a director or officer of a member bank of the association in order to serve on the board. Vacancies to fill unexpired terms shall be filled by appointment in the same manner that the original appointments were made; and

(p) Notwithstanding any other provision of law, serving on this board shall not be incompatible with holding any other office.

(4) Members of the network board shall serve without compensation, but shall be reimbursed for actual expenses incurred in the performance of their duties.

(5) A majority of the members shall constitute a quorum for the transaction of business.

(6) The network board shall meet at least four (4) times each year. It shall select from its membership a chairman and any other officers it considers essential. In addition, the board, upon the call of its chairman or any of its officers, may hold meetings at the times it deems necessary.

(7) The network board's duties, in addition to those enumerated in Section 2 of this Act, shall include recommending procedures and legislation to improve the record keeping function of county clerks' offices.

(8) The board shall be assisted in carrying out its duties by the Department of Information Services and the Secretary of State. No permanent staff shall be authorized for the board; however, the board may transfer funds from its trust account to the Department of Information Services and the Secretary of State to compensate the department and the Secretary of State for staff time and resources devoted to carrying out the directions of the board.

(9) The automated systems established pursuant to KRS Chapter 186A shall be used by and integrated into the Kentucky Lien Information Network where possible.

SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) The statewide automated lien information system, implemented by the Kentucky Lien Information Network, shall permit information to be entered into and retrieved from the system by county clerks and the Secretary of State from the filings made in the offices of the county clerks or Secretary of State pursuant to KRS Chapters 186, 186A, 355, and 134.

(2) County clerks and the Secretary of State shall enter information relative to title lien notation filings, security interests, financing statements, continuation statements, releases, amendments and assignments thereof, and other Uniform Commercial Code and lien documents filed pursuant to KRS Chapters 355, 186, 186A, and 134, filed in their offices into the lien information system database established by the Kentucky Lien Information Network. The information shall be entered under the rules of the Kentucky Lien Information Network Board.

(3) The board shall have the authority to promulgate administrative regulations pursuant to KRS Chapter 13A.

(4) The network shall:

(a) Establish a database for all information relating to liens and security interests that are filed pursuant to KRS Chapters 355, 186, 186A, and 134 at the offices of county clerks and Secretary of State;

(b) Permit the offices of all filing officers, county clerks and the Secretary of State to add, modify, and delete information in the database as required in KRS Chapters 355, 186, 186A, and 134;

(c) Permit the offices of all filing officers, county clerks, and the Secretary of State to have access to the database for review and search capabilities;

(d) Require the board, or its designee, to maintain the database;

(e) Require the board, or its designee maintaining the database, within two (2) business days following receipt of information in the database as required in KRS Chapters 355, 186, 186A, and 134, to send

written notice confirming the receipt and reflecting all information received and included in the database to the secured party of record or other lienholder.

(f) Provide security and protection of all information in the database and monitor the database to ensure that unauthorized entry is not allowed;

(g) Require standardized information for entry into the database;

(h) Designate the Secretary of State to approve all forms used or to be used in connection with the statewide automated lien information system;

(i) Prescribe an identification procedure for debtors and secured parties that will enhance lien searches; and

(j) Prescribe a procedure and promulgate administrative regulations for implementing the statewide automated lien information system.

(5) The statewide automated lien information system shall be implemented by the Kentucky Lien Information Network Board and be operational on or before January 1, 1993. The administrative regulations and procedures promulgated by the board for the implementation of the statewide automated lien information system shall be disseminated to the public, the county clerks, and the Secretary of State no later than December 1, 1992.

SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

There are established in the Treasury of the Commonwealth trust funds for the areas of responsibility for which the Kentucky Lien Information Network is established, and to which shall be credited one dollar and fifty cents ($1.50) of the fees charged by county clerks and the Secretary of State for the filing of an original financing statement, amendment to a financing statement, or a continuation statement pursuant to KRS Chapter 355, and for the notation of a lien on the certificate of title to property issued by the Commonwealth of Kentucky under KRS Chapter 186 or 186A. The funds shall be controlled by the board of the Kentucky Lien Information Network. The network board may request, and the request shall be honored, that the funds be invested and reinvested for the benefit of the Kentucky Lien Information Network, which shall use the funds to develop the network and pay for the necessary software, hardware, maintenance, and other costs of developing and operating the network. Income from the investments shall be credited to the funds available to the network. If the network board determines the moneys in its accounts exceed the amount needed by the network to carry out the purposes for which the network has been established, the network board may, in its discretion, use surplus funds for the automation of other record keeping functions of county clerks' offices throughout the Commonwealth; study the feasibility of expanding the network to include other types of liens and encumbrances; or, in its discretion, may release the excess funds and transfer the excess funds to the general fund of the State Treasury.

Section 4. KRS 64.012 is amended to read as follows:

The county clerk shall receive for the following services the following fees:

Recording deed of trust or assignment for the benefit of creditors, provided the entire record thereof does not exceed three pages	$ 5.00

Exceeding three pages, for each page	1.50
Copy and certification of same when ordered ***where the record does not exceed three pages***	3.50
Exceeding three pages, for each page	***.50***
Each bond required to be taken or prepared by the clerk	2.00
Copy of any bond when ordered	1.50
Recording a bond, each bond	5.00
Receiving the acknowledgment or proof of any deed, mortgage or agreement, power of attorney, or other written instrument required by law to be done and certifying same	1.25
Taking the acknowledgment or proof of a deed of real estate, certifying and recording the same and recording his own certificate, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of deed***, provided the entire record thereof does not exceed three pages***	3.50
Exceeding three pages, for each page	***.50***
Recording a mortgage of real estate, certificates, and all services connected with the same, provided the entire record thereof does not exceed three pages	7.00
Exceeding three pages, for each page	1.50
Certified copy of real estate mortgage***, provided the entire record thereof does not exceed three pages***	3.50
Exceeding three pages, for each page	***.50***
Recording deed of assignment of real estate mortgage	5.00
Noting release of any lien, mortgage or redemption other than a deed of release	2.50
Receiving the acknowledgment, recording and certifying each deed of release of a mortgage or lien under KRS 382.360	5.00
Each additional marginal notation relating to same instrument	2.50
Making a record for the establishment of a city, recording the plan or plat thereof, and all other services incident	10.00

Recording survey of a city, or any part thereof, or any addition to or extensions of the boundary of a city	10.00
Every order concerning the establishment, changing, closing or discontinuing of roads, to be paid out of the county levy when the road is established, changed, closed or discontinued, and by the applicant when it is not	1.00
Administering an oath and certificate thereof	1.00
Issuing license for which no other fee is fixed by law	1.50
Marriage license, bond, certificate and recording	14.00
For filing and indexing an original ***financing*** or continuation [~~financing~~] statement, and noting the security interest on the ***certificate of title*** [~~required receipt~~] for one motor vehicle ***and entering it into the automatic vehicle information system and into the Kentucky Lien Information Network data base established pursuant to Section 2 of this Act, provided the entire record thereof does not exceed three pages***	***10.00*** [~~6.00~~]
Exceeding three pages, for each page	***1.50***
For filing and indexing an assignment of ***rights under*** a financing statement ***or title lien statement and entering it into the automated vehicle information system pursuant to KRS 186.045 and into the Kentucky Lien Information Network database established pursuant to Section 2 of this Act***	***10.00*** [~~6.00~~]
For filing and indexing an amendment to a financing statement and entering it into the automated vehicle information system and into the Kentucky Lien Information Network database established pursuant to Section 2 of this Act, provided the entire record thereof does not exceed three pages	***10.00***
Exceeding three pages, for each page	***1.50***
For filing and noting a statement of release of collateral under a financing statement ***or title lien statement and entering it into the automated vehicle information system and into the Kentucky Lien Information Network database establishing pursuant to Section 2 of this Act***	***2.00*** [~~1.00~~]
Issuance of a certification as provided in KRS 355.9-407	***7.50*** [~~3.50~~]
Certified copy of financing statement or statement of assignment as provided in KRS 355.9-407, ***provided the entire record thereof does not exceed three pages***	3.50
Exceeding three pages, for each page	***.50***
Recording real estate options, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50

Recording power of attorney or revocation of power of attorney, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Recording plats, maps and surveys, not exceeding 24 inches by 36 inches, per page	10.00
Recording all leases which are recordable by law, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Marginal notation to same instrument	2.50
Filing or recording of certification of intention to operate a business under an assumed name	5.00
Filing a lien on a delinquent motor vehicle or trailer bill	6.00
Releasing a lien on a delinquent motor vehicle or trailer bill	1.50
Filing or recording of mechanic's and artisan's liens under KRS Chapter 376	5.00
Filing or recording of notice of lien issued by the Internal Revenue Service	5.00
Filing or recording of notice of lien discharges issued by the Internal Revenue Service	5.00
Filing or recording of lis pendens notice concerning proceedings in bankruptcy and other lis pendens notices, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording United States liens, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording release of a United States lien, provided the entire record per lien does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Filing or recording state tax or other state liens, other than liens on delinquent motor vehicles or trailers	5.00

Filing release of a state tax or other state lien, other than a lien on a delinquent motor vehicle or trailer	5.00
Filing notification and declaration and petition of candidates for office	20.00
Recording wills or other probate documents under KRS 394.300	5.00
Issuance of fish and game licenses or tags costing more than $1.00 each	.75
Registration of licenses for professional persons required to register with the county clerk	5.00
Recording and issuing articles, statements, or reports of corporations pursuant to KRS Chapters 271B, 272 and 273, including articles of incorporation, amendment, restatement of incorporation, merger, consolidation, or dissolution and statements of establishment of a series of shares, cancellation of a series of shares, reduction of capital, intent to dissolve, revocation of voluntary dissolution, or any other statement or report of a foreign or domestic corporation, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, for each page	1.50
Miscellaneous recordings for which no specific fee is set, provided the entire record thereof does not exceed three pages (except military discharges)	5.00
Exceeding three pages, each additional page	1.50
Filing miscellaneous documents for which no specific fee is set, provided the entire record thereof does not exceed three pages	5.00
Exceeding three pages, each additional page	1.50
Filing certification required by KRS 65.070(1)(a)	2.00
Certification of franchise tax assessment	2.50
Electronic fax transmission of copies, per page	***2.50***
Certified copy of any record, provided the record does not exceed three pages	***3.50***
Exceeding three pages, each additional page	***.50***

Section 5. KRS 186.045 is amended to read as follows:

(1) ***When*** [~~Whenever~~] a perfected security interest is assigned, the assignor ***may*** [~~shall~~] immediately give a statement of assignment to the assignee and at the same time deliver another copy of the statement to the debtor. The assignee ***may*** [~~shall~~], within thirty (30) days thereafter, present a copy of the statement of assignment to the county clerk in whose office the security interest was noted on the certificate of title.

The failure of the assignor to give a statement of assignment to the assignee or the debtor or the assignee's failure to present a copy to the county clerk shall not affect the validity of the lien or its perfected status; but any person without notice of the assignment shall be protected in dealing with the assignor as the holder of the security interest. The assignor shall remain liable for any obligations as lienholder until the statement of assignment is provided to the assignee and the debtor and a copy thereof is presented to the county clerk and entered in the automated vehicle information system and the lien information system database. Upon receipt of the assignment, the county clerk shall mark the same as provided in subsection (2) of KRS 355.9-405 and attach it to the motor vehicle lien statement. The county clerk shall enter ***any*** [~~the~~] assignment of ***a*** [~~the~~] perfected security interest ***presented to the clerk*** into the automated vehicle information system***, and the lien information system database established by the Kentucky Lien Information Network pursuant to the provisions of Section 2 of this Act***. For this service the county clerk shall collect a fee pursuant to KRS 64.012.

(2) ***When*** [~~Whenever~~] a security interest has been discharged, other than by proceedings under KRS 355.9-501 to 355.9-507 or similar proceedings, the secured party shall, within ten (10) days thereafter, deliver a termination statement in the manner required by KRS 355.9-404 to the county clerk of the county in which the motor vehicle lien statement was submitted. The secured party shall also deliver a copy of the termination statement to the debtor or the debtor's transferee. For failure to file the termination statement within the allowable time, the secured party shall be subject to the penalty provided in KRS 186.990(1). Within five (5) days after the receipt of ***the*** [~~such~~] documents, the county clerk shall note the filing in the index, in language prescribed by the cabinet, that the termination statement has been filed ***and enter it into the lien information system database***. Upon presentation of the owner's title showing ***the*** [~~such~~] security interest to the county clerk where the termination statement was submitted, and with the copy of the termination statement submitted by the secured party, the clerk shall discharge the security interest by noting on ***the*** [~~such~~] title that the termination statement has been filed and place the seal of the county clerk thereon. The clerk shall return the owner's title to the owner. The county clerk shall then file the termination statement in the place from which the motor vehicle lien statement was removed. Termination statements ***shall*** [~~must~~] be retained in the clerk's files for a period of two (2) years subsequent to the date of filing ***the*** [~~such~~] statement, at which time they may be destroyed. The fee for these services is included in the ***fee for noting the original security interest on the certificate of title for one (1) motor vehicle pursuant to KRS 64.012*** [~~provisions of KRS 186A.190~~].

(3) Upon presentation of the owner's title showing ***the*** [~~such~~] security interest to the county clerk of a county where the termination statement was not delivered, the county clerk of that county shall access the automated system to determine whether a record of termination of the security interest has been entered into the automated system by the county clerk where the termination statement was delivered by the secured party as provided in KRS 186A.210. If ***the*** [~~such~~] record of termination has been entered into the automated system, the county clerk of the county where the termination statement was not delivered[~~,~~] shall note the discharge of the security interest on the certificate of title by noting that the termination statement has been delivered, the county where it was delivered, and placing the seal of the county clerk thereon and may rely on the automated system to do so. If ***the*** [~~such~~] record of termination has not been entered into the automated system, [~~in no case shall~~] the county clerk of the county other than where the termination statement was delivered ***shall not***[~~,~~] make any notation upon the certificate of title that the security interest has been discharged or that a termination statement has been delivered to the county where the motor vehicle lien statement was submitted.

(4) ***When*** [~~Whenever~~] any secured party repossesses a vehicle titled in this state, for which a security interest is in existence at the time of repossession, and disposes of ***the*** [~~such~~] vehicle pursuant to the provisions of KRS Chapter 355, he ***shall*** [~~must~~] present, within fifteen (15) days after ***the*** [~~such~~] disposition, an affidavit in form prescribed by the department and a termination statement or proof that ***the*** [~~such~~] termination statement has been filed. The new owner shall pay all applicable fees for titling and transferring the vehicle to the county clerk. Upon receipt of ***the*** [~~such~~] documents, the county clerk who issued the lien shall then omit from the title he makes application for any information relating to the security interest under which the vehicle was repossessed or any security interest subordinate thereto. However, any security interest, as shown by ***the*** [~~such~~] title which is superior to the one under which the vehicle was repossessed, ***shall*** [~~must~~] be

shown on the title issued by the clerk unless the prior secured party has discharged ***the*** [~~such~~] security interest in ***the*** [~~such~~] clerk's office or proof of termination is submitted in case ***the*** [~~such~~] prior security interest was discharged in another clerk's office.

(5) ***When*** [~~Whenever~~] any vehicle brought into this state is required to be titled in this state and ***the*** [~~such~~] vehicle is [~~then~~] subject to a security interest in another state as shown by the out-of-state documents presented to the clerk, the county clerk ***shall be*** [~~is~~] prohibited from processing the application for title on the vehicle unless the owner obtains from the secured party a financing statement or motor vehicle lien statement and presents ***it*** [~~same~~] to the clerk along with the fees required in KRS ***64.012*** [~~186A.190~~]. The clerk shall note the out-of-state security interest on the certificate of title. This provision ***shall*** [~~does~~] not apply to vehicles required to be registered in Kentucky under forced registration provisions under KRS 186.145.

(6) The fees provided for in this section are in addition to any state fee provided for by law.

(7) Any person violating any provision of this section or any person refusing to surrender a certificate of title registration and ownership or transfer certificate upon request of any person entitled thereto[~~,~~] is subject to the penalties provided in subsection (1) of KRS 186.990.

(8) The county clerk ***shall be*** [~~is~~] prohibited from noting any security interest on a certificate of title on any vehicle subject to the provisions of KRS Chapter 186A if a certificate of title therefor is presented to him which has all the spaces provided thereon for noting security interests fully exhausted. The owner ***shall*** [~~must~~] see to it that a discharge is noted on the certificate of title for each security interest and [~~then~~] a duplicate title as provided for in KRS 186A.180 ***shall*** [~~must~~] be obtained from the clerk by the owner of the vehicle.

(9) Security interests in vehicles sold to or owned by residents of other states ***shall*** [~~must~~] be perfected in the state of ***the*** [~~such~~] nonresident and repossession of the vehicle ***shall*** [~~must~~] be taken pursuant to the laws of such state, unless the vehicle is principally operated in Kentucky and is properly titled [~~herein~~] under KRS Chapter 186A and the security interest is authorized to be noted on the certificate of title by the county clerk under KRS Chapter 186A.

Section 6. KRS 186A.190 is amended to read as follows:

(1) The perfection and discharge of a security interest in any property for which has been issued a Kentucky certificate of title shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and remain effective until discharged under this chapter and KRS Chapter 186. The perfection of an assignment of a security interest which has been noted on the certificate of title shall be in accordance with the provisions of KRS 186.045(1).

(2) The notation of security interests relating to property required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides. If the debtor is other than a natural person, the provisions of KRS 355.9-401(5)(b) through (k) shall govern the determination of the county of the debtor's residence. If the debtor does not reside in the Commonwealth, the notation of the security interest shall be done in the office of the county clerk in which the property is principally situated or operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any property registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in property for which a certificate of title is required by this chapter ***shall be*** [~~is~~] by notation on ***the*** [~~such~~] property's certificate of title. In other respects, the security interest ***shall be*** [~~is~~] governed by the provisions of KRS Chapter 355.

(3) Before ownership of property subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the property being transferred. Once a security interest has been noted on the owner's title, no subsequent title ***shall*** [~~may~~] be issued by any county clerk free of ***the*** [~~such~~] notation unless the owner's title is presented to the clerk and it has been noted thereon[~~,~~] that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk.

(4) No more than two (2) active security interests ***shall*** [~~may~~] be noted upon a certificate of title.

(5) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the title lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.

(6) [~~In lieu of any and all fees prescribed by statute and~~] For all the costs incurred in the notation and discharge of a security interest on the certificate of title, the county clerk shall receive ***the fees prescribed in KRS 64.012. The fees*** [~~ten dollars and fifty cents ($10.50) of which seven dollars and fifty cents ($7.50) shall be retained by the clerk and three dollars ($3) transmitted to the State Treasurer. The fee prescribed by this subsection~~] shall be paid at the time of submittal of the title lien statement described in KRS 186A.195.

(7) A copy of the application[~~,~~] certified by the county clerk, indicating the lien will be noted on the certificate of title, shall be forwarded to the lienholder.

(8) The county clerk shall enter the information required by this chapter into the lien information database established by the Kentucky Lien Information Network pursuant to the provisions of Section 2 of this Act. Within two (2) business days following receipt of the information in the database, the officer maintaining the database shall send written notice confirming the receipt and reflecting all information received and included in the database to the security party of record or other lienholder.

Section 7. KRS 142.010 is amended to read as follows:

(1) The following taxes shall be paid:

(a) A tax of three dollars and fifty cents ($3.50) on each marriage license;

(b) A tax of three dollars ($3) on each power of attorney to convey real or personal property;

(c) A tax of three dollars ($3) on each mortgage, financing statement, [~~or~~] security agreement ***or notation of a lien or security interest on a certificate of title***;

(d) A tax of three dollars ($3) on each conveyance of real property; and

(e) A tax of three dollars ($3) on each lien or conveyance of coal, oil, gas or other mineral right or privilege.

(2) The tax imposed by this section shall be collected by each county clerk as a prerequisite to the issuance of a marriage license or the original filing of an instrument subject to the tax. Subsequent assignment of

the original instrument shall not be cause for additional taxation under this section. This section shall not be construed to require any tax upon a deed of release of a lien retained in a deed or mortgage.

(3) Taxes imposed under this section shall be reported and paid to the Revenue Cabinet by each county clerk within ten (10) days following the end of the calendar month in which instruments subject to tax are filed or marriage licenses issued. Each remittance shall be accompanied by a summary report on a form prescribed by the cabinet.

(4) Any county clerk liable for the taxes imposed by this section who fails to file a report and pay the tax to the cabinet on or before the due date shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty equal to ten percent (10%) of the tax due. In every case, any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

Section 8. KRS 355.9-105 is amended to read as follows:

(1) In this Article unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) ***"Database" means the statewide automated lien information system database established by the Kentucky Lien Information Network pursuant to Section 2 of this Act;***

(e) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the Article dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(f)[~~(e)~~] "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a certificate of deposit;

(g)[~~(f)~~] "Document" means document of title as defined in the general definitions of Article 1 (KRS 355.1-201) and a receipt of the kind described in subsection (2) of KRS 355.7-201;

(h)[~~(g)~~] "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(i)[~~(h)~~] "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (KRS 355.9-313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like (including oil and gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals and growing crops;

(j)[~~(i)~~] "Instrument" means a negotiable instrument (defined in KRS 355.3-104), or a certificated security (defined in KRS 355.8-102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(k)[~~(j)~~] "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(l)[~~(k)~~] An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(m)[~~(l)~~] "Security agreement" means an agreement which creates or provides for a security interest;

(n)[~~(m)~~] "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(2) Other definitions applying to this Article and the sections in which they appear are:

"Account," KRS 355.9-106;

"Attach," KRS 355.9-203;

"Construction mortgage," KRS 355.9-313 (1);

"Consumer goods," KRS 355.9-109 (1);

"Equipment," KRS 355.9-109 (2);

"Farm products," KRS 355.9-109 (3);

"Fixture," KRS 355.9-313;

"Fixture filing," KRS 355.9-313;

"General intangibles," KRS 355.9-106;

"Inventory," KRS 355.9-109 (4);

"Lien creditor," KRS 355.9-301 (3);

"Proceeds," KRS 355.9-306 (1);

"Purchase money security interest," KRS 355.9-107;

"United States," KRS 355.9-103.

(3) The following definitions in other Articles apply to this Article:

"Check," KRS 355.3-104;

"Contract for sale," KRS 355.2-106;

"Holder in due course," KRS 355.3-302;

"Note," KRS 355.3-104;

"Sale," KRS 355.2-106.

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this Article.

Section 9. KRS 355.9-401 is amended to read as follows:

(1) The proper place to file in order to perfect a security interest is as follows:

(a) Except for equine or interests therein defined in KRS 355.9-109(3), when the collateral is equipment used in farming operations, or farm products, or accounts or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county clerk in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the county clerk in the county where the land is located;

(b) When the collateral is timber to be cut or is minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, or when the financing statement is filed as a fixture filing (KRS 355.9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded, and where they shall be indexed separately from mortgage instruments; and

(c) In all other cases, if the debtor is a resident of this state in the office of the county clerk in the county of the debtor's residence or, if the debtor is a nonresident of this state, then in the office of the Secretary of State of the Commonwealth of Kentucky. The Secretary of State may collect a fee ***pursuant to KRS 64.012*** [~~of eight dollars ($8)~~] for each filing in his office under this section.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in KRS 355.9-103 determine whether filing is necessary in this state.

(5) For the purposes of this section:

(a) An individual debtor for whom filing is controlled by subsection (1)(c) of this section shall be deemed a resident of the county in which the debtor's principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(c) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its office is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362. If such office is not located in this state, the debtor shall be deemed a nonresident for purposes of filing in this state;

(d) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the secretary of state of the Commonwealth of Kentucky;

(e) A corporation organized under KRS Chapter 271B, 273 or 274 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;

(f) A corporation not organized under the laws of this state and authorized to transact or do business in this state under KRS Chapter 271B, 273 or 274 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the Secretary of State which officially designates its current registered office;

(g) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(h) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky;

(i) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(j) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the Secretary of State of the Commonwealth of Kentucky; and

(k) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located, except that any limited partnership or corporation not organized under the laws of this state and not authorized to transact or do business in this state shall be deemed a nonresident for purposes of filing in this state. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

Section 10. KRS 355.9-403 is amended to read as follows:

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) Except as provided in subsection (6) of this section a filed financing statement is effective for a period of five (5) years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five (5) year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty (60) days or until expiration of the five (5) year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six (6) months prior to the expiration of the five (5) year period specified in subsection (2) of this section. Any such continuation statement must be signed by the secured party, identify the original statement by file number and date filed and state that the original statement is still effective. A continuation statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five (5) years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one (1) year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other relating filings, or by other means, that if he physically destroys the financing statements of a period more than five (5) years past, those which have been continued by a continuation statement or which are still effective under subsection (6) of this section shall be retained.

(4) Except as provided in subsection (7) of this section a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall*:*

(a) Index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement***; and***

(b) Transmit the information contained in the statement together with the date and time of filing and file number thereof, no later than 4:30 p.m., prevailing local time, on the second business day following

filing, or any other time and day prescribed by administrative regulations of the Kentucky Lien Information Network Board, to the officer maintaining the database for inclusion in the database.

(5) The uniform fee for filing and indexing an original ***financing*** or a continuation statement shall be as provided for in KRS 64.012. This fee includes the fee for filing and indexing a termination statement and for sending or delivering the terminated instrument and financing statement.

(6) A real estate mortgage which is effective as a fixture filing under subsection (6) of KRS 355.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

Section 11. KRS 355.9-404 is amended to read as follows:

(1) ***When*** [~~Whenever~~] there is no outstanding secured obligation and no commitment to make advances, incur obligations or otherwise give value, the secured party must on written demand by the debtor send the debtor, for each filing officer with whom the financing statement was filed, a termination statement to the effect that he no longer claims a security interest under the financing statement, and identify the original statement by file number and date filed. A termination statement signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee. The uniform fee for filing and indexing such an assignment or statement thereof shall be three dollars ($3). If the affected secured party fails to file such termination statement as required by this subsection, or to send such a termination statement within ten (10) days after proper demand therefor he shall be liable to the debtor for one hundred dollars ($100), and in addition for any loss caused to the debtor by such failure.

(2) In the absence of a demand by the debtor for a statement of termination, and within fifteen (15) days after a secured transaction evidenced by record in the county clerk's or secretary of state's office has terminated, the secured party must file with each filing officer with whom the financing statement was filed a termination statement to the effect that he no longer claims a security interest under the financing statement or other instrument, which shall be identified by file number and date filed. If the actual secured party willfully fails to send such a termination statement within fifteen (15) days after he no longer claims a security interest, he shall be liable to the debtor for twenty-five dollars ($25), and in addition for any loss caused to the debtor by such failure.

(3) On presentation to the filing officer of such a termination statement he ***shall:*** [~~must~~]

(a) Note it in the index***; and***

(b) Transmit the information contained in the termination statement together with the date and time of filing no later than 4:30 p.m., prevailing local time, on the second business day following filing or any other time or day prescribed by administrative regulations of the Kentucky Lien Information Network Board, to the officer maintaining the database for inclusion in the database.

If he has received the termination statement in duplicate, he shall return one (1) copy of the termination statement to the secured party stamped to show the time of receipt thereof. ***When*** [~~Whenever~~] a statement required under this chapter need be sent to a party to the transaction by the filing officer, it shall be sufficient for the filing officer to send the statement to the party entitled to receive it, at his last known address. If the filing officer has a microfilm or other photographic record of the financing statement, and of any related continuation statement, statement of assignment and statement of release, he may remove the originals from the files at any time after receipt of the termination statement, or if he has no such record, he may remove them from the files at any time after one (1) year after receipt of the termination statement.

(4) The uniform fee for filing and indexing a termination statement for any financing statement filed prior to July 1, 1966 for which a termination fee was not paid when the financing statement was filed and for sending or delivering the terminated instrument and for sending or delivering the financing statement shall be seventy-five (75) cents.

Section 12. KRS 355.9-405 is amended to read as follows:

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall***:***

(a) Mark the same as provided in KRS 355.9-403 (4)***; and***

(b) Transmit the information contained in the statement together with the date and time of filing or any other time or day prescribed by administrative regulations of the Kentucky Lien Information Network Board and file number thereof, no later than 4:30 p.m., prevailing local time, on the second business day following filing, to the officer maintaining the database for inclusion in the database.

The uniform fee for filing and indexing a financing statement so indicating an assignment shall be as provided in KRS 64.012.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall***:***

(a) Mark ***the*** [~~such~~] separate statement with the date and hour of filing***; and***

(b) Transmit the information contained in the separate statement together with the date and time of filing, no later than 4:30 p.m., prevailing local time, on the second business day following filing or any other time or day prescribed by administrative regulations of the Kentucky Lien Information Network Board, to the officer maintaining the database for inclusion in the database.

He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas), other than coal, or accounts subject to subsection (5) of KRS 355.9-103, other than accounts arising out of the sale of coal, he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing and indexing such a separate statement of assignment shall be as provided in KRS 64.012. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of KRS 355.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this chapter.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Section 13. KRS 355.9-406 is amended to read as follows:

A secured party of record may by his signed statement release all or a part of any collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. A statement of release signed by a person other than the secured party of record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee. Upon presentation of such a statement of release to the filing officer he shall mark the statement with the hour and date of filing***,*** [~~and~~] shall note the same upon the margin of the index of the filing of the financing statement***, and shall transmit the information contained in the statement together with the date and time of filing no later than 4:30 p.m., prevailing local time, on the second business day following filing or any other time or day prescribed by administrative regulations of the Kentucky Lien Information Network Board, to the officer maintaining the database for inclusion in the database***. The uniform fee for filing and noting such a statement of release shall be as provided for in KRS 64.012.

Section 14. KRS 355.9-407 is amended to read as follows:

(1) If the person filing any financing statement, termination statement, statement of assignment, or statement of release, furnishes the filing officer a copy thereof, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to such person.

(2) Upon request of any person, the filing officer shall issue his certificate showing whether there is on file on the date and hour stated therein, any presently effective financing statement naming a particular debtor and any statement of assignment thereof and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party therein. Upon request the filing officer shall furnish a certified copy of any filed financing statement or statement of assignment.

(3) ***Upon request of any person, a county clerk, or, upon the request of any nonresident of the Commonwealth, the Secretary of State shall conduct a search of the database for any effective financing statements, lien notations, statements of assignment, continuation statements, releases, termination statements and other statements filed pursuant to KRS Chapters 355, 186, 186A, and 134 with respect to a specified debtor. The officer shall report his findings as of a specified date and hour by issuing a certificate listing the file number, date, hour, and filing location of each filing and the names and addresses of each secured party, lessor, or consignor therein. The certificate shall contain the following disclaimer: "This is an information system. The filing officer by furnishing this information makes no warranty or representation. Any party obtaining information from this system shall be on notice to examine the individual filings referred to in this certificate for any legal reliance." The fee for the search shall be fixed by administrative regulation by the Kentucky Lien Information Network Board created by Section 1 of this Act and shall be divided between the network and the county clerk or Secretary of State conducting the search as the administrative regulation provides.***

(4) Neither the filing officer***, county clerk, Secretary of State,*** nor any employee ***thereof*** [~~of the filing officer~~] shall be personally liable for any damages which may arise due to information furnished pursuant to this section which is subsequently shown to be inaccurate ***or incomplete***.

Section 15. KRS 355.2A.103 is amended to read as follows:

(1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee, except an organization, who takes under the lease primarily for a personal, family, or household purpose.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease in which:

1. The lessor does not select, manufacture or supply the goods;

2. The lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

3. Either the lessee receives a copy of the contract evidencing the lessor's purchase of the goods on or before signing the lease contract, or the lessee's approval of the contract evidencing the lessor's purchase of the goods is a condition to effectiveness of the lease contract.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (KRS 355.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to him is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a pre-existing lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions". Subsection (1) of KRS 355.2A-310.

"Construction mortgage". Subsection (1)(d) of KRS 355.2A-309.

"Encumbrance". Subsection (1)(e) of KRS 355.2A-309.

"Fixtures". Subsection (1)(a) of KRS 355.2A-309.

"Fixture filing". Subsection (1)(b) of KRS 355.2A-309.

"Purchase money lease". Subsection (1)(c) of KRS 355.2A-309.

(3) The following definitions in other articles apply to this article:

"Accounts". KRS 355.9-106.

"Between merchants". KRS 355.2-104(3).

"Buyer". KRS 355.2-103(1)(a).

"Chattel paper". KRS 355.9-105(1)(b).

"Consumer goods". KRS 355.9-109(1).

"Documents". KRS 355.9-105(1)***(g)***[~~(f)~~].

"Entrusting". KRS 355.2-403(3).

"General intangibles". KRS 355.9-106.

"Good faith". KRS 355.2-103(1)(b).

"Instruments". KRS 355.9-105(1)***(j)***[~~(i)~~].

"Merchant". KRS 355.2-104(1).

"Mortgage". KRS 355.9-105(1)***(k)***[~~(j)~~].

"Pursuant to commitment". KRS 355.9-105(1)***(l)***[~~(k)~~].

"Receipt". KRS 355.2-103(1)(c).

"Sale". KRS 355.2-106(1).

"Sale on Approval". KRS 355.2-326.

"Sale or Return". KRS 355.2-326.

"Seller". KRS 355.2-103(1)(d).

(4) In addition Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Section 16. The provisions of Sections 1 and 2 of this Act shall be effective in accordance with Section 55 of the Kentucky Constitution. All other sections of this Act shall be effective on July 1, 1993.

The Committee Amendment No. 1 to **SB 209** is as follows:

Amend printed copy of **SB 209/GA** on page 1, lines 13 and 14, by deleting the name "***Kentucky Lien Information Network***" and inserting in lieu thereof the name "***Commonwealth Lien Information Network of Kentucky***"; and

By making the same name change on the following pages and lines:

Page 5, lines 6, 10, 23 and 25; and

Page 7, lines 12 and 13 and line 23; and

Page 8, lines 6 and 9; and

Page 11, lines 12 and 13, lines 20 and 21, and line 26; and

Page 12, lines 8 and 9; and

Page 16, lines 23 and 24; and

Page 24, lines 14 and 15; and

Page 27, lines 1 and 2; and

Page 37, line 16; and

Page 40, line 14; and

Page 42, line 1; and

Page 43, line 3; and

Page 44, line 23; and

Page 46, lines 14 and 15.

The Committee Amendment No. 2 to **SB 209** is as follows:

Amend printed copy of **SB 209/GA** on page 1, line 19, by inserting, after "***operation,***" the word "***sale,***"; and

On page 5, line 24, by deleting the word "***rules***" and by inserting in lieu thereof the words "***administrative regulations***"; and

On page 7, line 7, by deleting "***and***"; and

On page 7, line 8, by inserting after "***(j)***" the following:

"***Prescribe a procedure and promulgate administrative regulations for the sale of data in a machine readable form or by electronic transmission;***

(k) Prescribe a procedure and promulgate administrative regulations in which all users and purchasers of information are advised of the disclaimer in Section 14 of this bill; and

(l)"; and

On page 8, line 21, by deleting "***and***" and inserting in lieu thereof "***,***"; and

On page 8, line 21, by inserting after "***encumbrances***" the words "***, and bankruptcy notices***"; and

On page 31, lines 10 and 11, by deleting "***pursuant to KRS 64.012***"; and

On page 31, line 11, by deleting the brackets and strikethroughs from the phrase "of eight dollars ($8)"; and

On page 31, line 11, by bracketing and striking through "eight" and "($8)"; and

On page 31, line 11, by inserting after "of" the word "***ten***" and by inserting after the word dollars the word "***($10)***"; and

On page 46, line 10, by inserting after "***representation***" the phrase "***that the information is correct or complete***"; and

On page 46, line 12, by deleting the words "***referred to in this certificate***".

The Committee Amendment No. 3 to **SB 209** is as follows:

Amend printed copy of **SB 209/GA** on page 9, lines 6, 7 and 8, by deleting all underlined material; and

On page 9, lines 23, 24 and 25, by deleting all underlined material; and

On page 10, lines 5, 6 and 7, by deleting all underlined material; and

On page 11, lines 14 and 15, by deleting "***, provided the entire record thereof does not exceed three pages***" and by deleting "***10.00***" and by removing the brackets and strikethroughs from "6.00"; and

On page 11, by deleting line 16; and

On page 11, line 22, by deleting "***10.00***" and by removing the brackets and strikethroughs from "6.00"; and

On page 12, line 10, by deleting "***2.00***" and by removing the brackets and strikethroughs from "1.00"; and

On page 12, line 12, by deleting "***7.50***" and by removing the brackets and strikethroughs from "3.50"; and

On page 12, lines 15, 16 and 17, by deleting all underlined material; and

On page 23, lines 25 and 26, by deleting all brackets and strikethroughs; and

On page 24, lines 2 and 3, by deleting "***the fees prescribed in KRS 64.012. The fees***"; and

On page 24, lines 3 through 7, by deleting all brackets and strikethroughs; and

On page 31, lines 10 and 11, by deleting "***pursuant to KRS 64.012***" and by deleting all brackets and strikethroughs.

The Committee Amendment No. 4 to **SB 209** is as follows:

Amend printed copy of **SB 209/GA** on page 1, line 21, by deleting "***a board***" and inserting in lieu thereof "***and attached to the Office of the Secretary of State***"; and

On page 2, by deleting lines 1 through 26; and

On page 3, by deleting lines 1 through 26; and

On page 4, by deleting lines 1 through 16; and

On page 4, line 17, by changing "***(7)***" to "***(4)***" and by deleting "***network board's***" and inserting in lieu thereof "***Secretary of State's***"; and

On page 4, line 21, by changing "***(8)***" to "***(5)***" and by deleting "***board***" and inserting in lieu thereof "***Office of the Secretary of State***"; and

On page 4, line 22, by deleting "***and the***"; and

On page 4, line 23, by deleting "***Secretary of State***"; and

On page 4, line 24, by deleting "***for the board; however, the board***" and inserting in lieu thereof "***for the network; however, the Secretary of State***"; and

On page 4, line 25, by deleting "***its***" and inserting in lieu thereof "***the network's***"; and

On page 4, line 26, by inserting "***Office of the***" before "***Secretary***"; and

On page 5, line 1, by inserting "***Office of the***" before "***Secretary***"; and

On page 5, line 3, by deleting "***board***" and inserting in lieu thereof "***Secretary of State as administrator of the network***"; and

On page 5, line 4, by changing "***(9)***" to "***(6)***"; and

On page 5, line 25, by deleting "***Kentucky Lien Information Network Board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 5, line 26, by deleting "***board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 6, line 2, by inserting before "***network***" the words "***Secretary of State as administrator of the***"; and

On page 6, by deleting line 14 and inserting in lieu thereof "***(d) Maintain***"; and

On page 6, by deleting line 16; and

On page 6, line 17, by deleting "***the database, within***" and inserting in lieu thereof "***(e) Within***"; and

On page 6, line 19, by deleting "***to***"; and

On page 7, by deleting line 2 and inserting in lieu thereof "***(h) Approve all***"; and

On page 7, lines 12 and 13, by deleting "***Kentucky Lien Information Network Board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 7, line 15, by deleting "***board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 7, line 17, after "***public***" by deleting the comma and inserting in lieu thereof "***and***" and by deleting, after "***clerks***" the phrase "***, and the***"; and

On page 7, line 18, by deleting "***Secretary of State***"; and

On page 8, line 6, by deleting "***board of***" and inserting in lieu thereof "***Secretary of State for***"; and

On page 8, line 7, by deleting "***network board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 8, line 14, by deleting "***network board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 8, line 15, by deleting "***its***" and inserting in lieu thereof "***the network's***"; and

On page 8, line 17, by deleting "***network board***" and inserting in lieu thereof "***Secretary of State***" and by deleting "***its***" and inserting in lieu thereof "***his***"; and

On page 8, line 22, by deleting "***its***" and inserting in lieu thereof "***his***"; and

On page 27, line 1, by inserting, after "***by***" the words "***the Office of Secretary of State for***"; and

On page 37, lines 16 and 17, by deleting "***Kentucky Lien Information Network Board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 40, line 14, by deleting "***Kentucky Lien Information Network Board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 42, line 1, by deleting "***Kentucky Lien Information Network Board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 43, line 3, by deleting "***Kentucky Lien Information Network Board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 44, line 23, by deleting "***Kentucky Lien Information Network Board***" and inserting in lieu thereof "***Secretary of State***"; and

On page 46, lines 14 and 15, by deleting "***Kentucky Lien Information Network Board created by Section 1 of this Act***" and inserting in lieu thereof "***Secretary of State***"; and

On page 46, line 16, by deleting "***network***" and inserting in lieu thereof "***Commonwealth Lien Information Network of Kentucky created by Section 1 of this Act***".

Motions, Petitions and Communications (Continued)

The following member filed a request to have his name added as a co-sponsor to a Bill: **HB 800**, Representative Donnermeyer.

Representative Ward moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Ward moved that he be recorded as voting "yea" on **SB 107**, **SB 111**, **SB 114**, **SB 112**, **SB 192**, **SB 3**, **SB 145**, **SB 202**, **SB 314**, **SB 315**, **SB 316**, **SB 215**, **SB 313**, **SB 323**, **SB 335**, **SB 130**, **SB 159**, **SB 267**, **SB 285**, **SB 318**, **SB 330**, **SB 191**, **SB 311** and **SB 139**. Agreed.

Representative Bryant moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bryant moved that her vote be changed from "nay" to "yea" on **HB 473**. Agreed.

Representative Scorsone moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Scorsone moved that he be recorded as voting "nay" on **SB 314**. Agreed.

Representative Scorsone moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Scorsone moved that his vote be changed from "yea" to "nay" on **HB 458**. Agreed.

Representative Lyne moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that her vote be changed from "nay" to "yea" on **SB 114**. Agreed.

Representative Strong moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Strong moved that his vote be changed from "nay" to "yea" on **SJR 85** and **SB 316**. Agreed.

Representative Williams moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Williams moved that he be recorded as voting "yea" on **HB 516** and **SB 313**. Agreed.

Representative Williams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Williams moved that his vote be changed from "nay" to "yea" on **HB 333**. Agreed.

Representative Todd moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Todd moved that his vote be changed from "nay" to "yea" on **HB 640** and **HB 333**. Agreed.

Representative K. Harper moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative K. Harper moved that he be recorded as voting "yea" on **SB 335**. Agreed.

Representative Stokes moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Stokes moved that she be recorded as voting "yea" on **HB 749**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **SB 145**, **SB 318** and **SB 66**. Agreed.

Representative Geveden moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **SB 130**. Agreed.

The Speaker announced the appointment of the previously appointed members of the Conference Committee to the Free Conference Committee on **HB 468**.

Representative Zimmerman moved that the vote by which **SB 28** was defeated be reconsidered and the Bill placed in the Orders of the Day for March 25, 1992.

On the roll call the vote was yeas 52—Altman, Ark, Arnold, Ballard, Blandford, Bowling, Brown, Butler, Castleman, L. Clark, P. Clark, Coleman, Collins, Cyrus, Ford, Freibert, Gedling, Geveden, J. Harper, Heleringer, Hourigan, Johnson, Jones, Lear, Lewis, Little, Long, Lyne, McElroy, Moberly, Morris, Noe, Northup, Nunn, Pritchett, Reinhardt, Ridley, Riggs, Sanders, Scorsone, Sheehan, B. Smith, R. Smith, T. Smith, Stokes, Stumbo, Turner, Walker, Ward, Williams, Yates, Zimmerman. Nays 14—Allen, Bentley, Burch, Casebier, Gee, Gray, K. Harper, Lile, Napier, Strong, Toby, Todd, Wayne, Worthington.

The motion that the vote by which **SB 28** was defeated be reconsidered and the Bill placed in the Orders of the Day for March 25, 1992 was adopted.

Representative Donnermeyer moved the adoption of the following **HR 252**:

HR 252, A RESOLUTION honoring Mary Fuchs on the occasion of her one hundredth birthday.

WHEREAS, this distinguished, longtime resident of Dayton, Kentucky, celebrated her one hundredth birthday February 17, 1992; and

WHEREAS, Mary Fuchs, the mother of five, grandmother of sixteen, and great-grandmother of twenty-three children, is well known as one always emitting radiant love; and

WHEREAS, Mary Fuchs came to Dayton when she married Carl Fuchs, Sr., seventy-six years ago; and

WHEREAS, she is a devoted member of St. Bernard Church and says her love of God has brought her this far;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives wishes Mary Fuchs a very, very, happy one hundredth year.

Section 2. That this honorable body hails Mary Fuchs as an exemplary representative of the Commonwealth.

Section 3. That the Clerk of the House is directed to send a copy of this Resolution to Mary Fuchs, 414 Main Street, Dayton, Kentucky 41074.

HR 252 was adopted by voice vote.

Representative Scorsone moved the adoption of the following **HR 251**:

HR 251, A RESOLUTION adjourning in honor of Dan Mynear of Lexington, crusader against A.I.D.S.

WHEREAS, Kentucky has one of the highest rates of unwed teenage pregnancy in the United States; and

WHEREAS, this unfortunate fact would seem to reveal an appalling absence of understanding of safe sex techniques; and

WHEREAS, Kentucky is obviously dangerously vulnerable to the spread of venereal diseases; and

WHEREAS, the guidance and protection of the Commonwealth's children should be of the utmost importance to every Kentuckian; and

WHEREAS, the world wide epidemic of A.I.D.S., which is racing around the globe, has reached Kentucky; and

WHEREAS, educating Kentuckians about A.I.D.S. is an important preventive undertaking promoted by citizens' groups such as A.I.D.S. Volunteers of Lexington; and

WHEREAS, the tireless efforts of a few men and women who were willing to stand against this dreadful and devastating disease have sounded the bugle call to action; and

WHEREAS, Dan Mynear is one such person who has given unselfishly of his time and energies to educate others, relieve the suffering of those inflicted and to demonstrate tolerance, love and understanding; and

WHEREAS, Dan Mynear had demonstrated the highest concern, love and compassion for his fellow man by his work with various A.I.D.S. related groups and in particular his work with A.I.D.S. Volunteers of Lexington; and

WHEREAS, Dan Mynear's actions speak for themselves and serve as an example of the truest form of Christian love; and

WHEREAS, Dan Mynear inspires all who know him with his jovial and optimistic spirit and determined love of life;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this august body pays tribute to Dan Mynear for his tireless efforts to eradicate A.I.D.S. through education and for his compassionate work with A.I.D.S. Volunteers of Lexington.

Section 2. That the House of Representatives extends its appreciation to Dan Mynear for his crusade to protect the children of our great Commonwealth against the scourge of A.I.D.S. and adjourns this day in his honor.

Section 3. That the Clerk of the House is directed to transmit a copy of this Resolution to Dan Mynear, 524 Sayre Avenue, Lexington, Kentucky.

HR 251 was adopted by voice vote.

Representative Rapier moved the adoption of the following **HR 249**:

HR 249, A RESOLUTION honoring and welcoming the Nelson County Baptist Christian School volleyball and basketball teams.

WHEREAS, the Nelson County Baptist Christian School volleyball and basketball teams are our guest today; and

WHEREAS, the Nelson County Baptist Christian School is the 1992 State and Conference Volleyball Champion for the Kentucky Christian School Athletic Association; and

WHEREAS, this school is also the 1992 State and Conference Basketball Champion for the Kentucky Christian School Athletic Association;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body praises the performance of each member of these two teams, volleyball coach Alesha Seay; and basketball coach John Seay.

Section 2. That the House of Representatives extends its heartiest congratulations to church pastor, Brother Darrell Goodlett.

Section 3. That the clerk of the House send three copies of this Resolution to Pastor Brother Darrell Goodlett, 606 McDonald Drive, Bardstown, Kentucky 40004.

HR 249 was adopted by voice vote.

Announcements

The following meetings were announced:

Transportation, 5:30 p.m., March 24, 1992, Room 149.

Appropriations and Revenue, 9:30 a.m., March 25, 1992.

Education, Room 131, March 24, 1992, upon adjournment.

Labor and Industry, 12 Noon, March 25, 1992.

Counties and Special Districts, 8:30 a.m., March 25, 1992, Room 131.

Banking and Insurance, March 25, 1992, upon adjournment.

The following meeting was cancelled:

Economic Development, March 25, 1992.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 25, 1992.

On the roll call the vote was yeas 76—Ackerson, Adkins, Allen, Altman, Ark, Ballard, Barrows, Bentley, Blandford, Bowling, Brown, Bruce, Bryant, Butler, Callahan, Castleman, L. Clark, P. Clark, Clarke, Collins, Crupper, Curd, Cyrus, Donnermeyer, Ford, Freibert, Gee, Gedling, Gray, Hancock, J. Harper, K. Harper, Hatcher, Jensen, Johnson, Jones, Kerr, Lear, Little, Lyne, Mack, Mason, McElroy, Moberly, Morris, Mullinix, Napier, Nelson, Noe, Noland, Northup, Nunn, Palumbo, Pritchett, Rapier, Ravenscraft, Reinhardt, Richards, Richardson, Ridley, Riggs, Sanders, B. Smith, R. Smith, T Smith, Stokes, Stumbo, Toby, Todd, Turner, Walker, Wayne, Williams, Worthington, Yates, Zimmerman. Nays 5—Bronger, Farley, Heleringer, LeMaster, Lile.

The motion to adjourn was adopted.